

# **EXHIBIT B**

Captain Vijay Cherukuri  
June 25, 2020

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

INTERCONTINENTAL )  
TERMINAL CORPORATION, )  
LLC, )  
Plaintiff ) Case No. 4:18-cv-3113  
VS. )  
Admiralty  
AFRAMAX RIVER MARINE )  
CO., EXECUTIVE SHIP )  
MANAGEMENT PTE LTD., )  
M/T AFRAMAX RIVER, )  
Defendants )

CORPORATE REPRESENTATIVE DEPOSITION OF  
CAPTAIN VIJAY CHERUKURI  
JUNE 25, 2020  
(REPORTED REMOTELY)

REMOTE DEPOSITION of CAPTAIN VIJAY CHERUKURI,  
produced as a witness at the instance of the  
Defendants, and duly sworn, was taken in the  
above-styled and numbered cause on June 25, 2020, from

8:22 a.m. to 10:51 a.m., before Denyce M. Sanders,  
CSR, RDR, CRR, CCR (LA), in and for the State of  
Texas, recorded by machine shorthand, at the location  
of the witness in Singapore, pursuant to the Federal  
Rules of Civil Procedure and the provisions stated on  
the record or attached hereto; signature having been  
requested.

JOB NO. 1-338150

<p>Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 ** Appearing Remotely Via RemoteDepo **</p> <p>3 FOR THE ITC PLAINTIFFS:</p> <p>4 ZABEL FREEMAN</p> <p>5 1135 Heights Boulevard</p> <p>6 Houston, Texas 77008</p> <p>7 Ms. Pamela Dupuis</p> <p>8 713.802.9117</p> <p>9 pdupuis@zflawfirm.com</p> <p>10 Mr. Brook Minx</p> <p>11 Ms. Taylor A. Cruse</p> <p>12</p> <p>13 FOR THE ITC DEFENDANTS:</p> <p>14</p> <p>15 A. THOMAS KAJANDER, P.C.</p> <p>16 1021 Janet Drive</p> <p>17 Canyon Lake, Texas 78133</p> <p>18 Mr. A. Thomas Kajander</p> <p>19 713.963.9400</p> <p>20 kajhou@yahoo.com</p> <p>21 FOR AFRAMAX RIVER MARINE CO., EXECUTIVE SHIP</p> <p>22 MANAGEMENT PTE LTD., M/T AFRAMAX RIVER:</p> <p>23</p> <p>24 WILSON ELSEER MOSKOWITZ EDELMAN &amp; DICKER LLP</p> <p>25 650 Poydras Street, Suite 2200</p> <p>New Orleans, Louisiana 70124</p> <p>Mr. Michael A. Harowski</p> <p>504.702.1710</p> <p>michael.harowski@wilsonelser.com</p> <p>FOR SUDERMAN &amp; YOUNG TOWING COMPANY AND G&amp;H TOWING:</p> <p>BLANK ROME LLP</p> <p>717 Texas Avenue, Suite 1400</p> <p>Houston, Texas 77002</p> <p>Mr. Jeremy A. Herschaft</p> <p>713.228.6601</p> <p>jherschaft@blankrome.com</p> <p>Mr. Zachary J. Wyatte</p> <p>ALSO PRESENT:</p> <p>Mr. Douglas Torborg</p> <p>Mr. Constantine Antonopoulos</p>	<p>Page 2</p> <p>1 EXHIBIT INDEX</p> <p>2 ORAL DEPOSITION OF</p> <p>3 CAPTAIN VIJAY CHERUKURI, JUNE 25, 2020</p> <p>4 Description Page</p> <p>5 *** Introduced only</p> <p>6 Exhibit 5 Bridge Management Manual ..... 7</p> <p>7 table of contents</p> <p>8</p> <p>9 Exhibit 6 Section 1.2 through 1.2.5 of . 10</p> <p>10 ESM manual</p> <p>11 Exhibit 7 Section 1.6.4 through 1.7 of . 14</p> <p>12 ESM manual</p> <p>13</p> <p>14 Exhibit 8 Section 1.11 through 1.3.1 ... 15</p> <p>15 of ESM manual</p> <p>16 Exhibit 9 Navigation Rules &amp; ..... 16</p> <p>17 Regulations Handbook, Rule 6</p> <p>18</p> <p>19 Exhibit 10 Section 1.21 through 1.21.3 .. 25</p> <p>20 of ESM manual</p> <p>21 Exhibit 11 Vessel Operations Manual ..... 52</p> <p>22 table of contents</p> <p>23</p> <p>24 Exhibit 12 Section 2.2 through 2.4.1 of . 53</p> <p>25 Vessel Operations Manual</p> <p>Section 11 through 11.13 of .. 54</p> <p>Vessel Operations Manual</p> <p>9-6-16 memo from Syed to ..... 61</p> <p>Aframax River</p> <p>Exhibit 15 Service Report JMS 00934..... 70</p> <p>Exhibit 16 Tax Invoice Nos. RG939340-S .. 75</p> <p>and RG939340-P</p> <p>• _____ •</p>
<p>Page 3</p> <p>1 INDEX</p> <p>2 ORAL DEPOSITION OF</p> <p>3 CAPTAIN VIJAY CHERUKURI, JUNE 25, 2020</p> <p>4 Page</p> <p>5 APPEARANCES..... 2</p> <p>6 BY MR. HERSCHAFT..... 5</p> <p>7 BY MS. DUPUIS..... 32</p> <p>8 BY MR. KAJANDER..... 36</p> <p>9 BY MS. DUPUIS..... 49</p> <p>10 BY MR. HERSCHAFT..... 51</p> <p>11 BY MS. DUPUIS..... 79</p> <p>12 BY MR. KAJANDER..... 85</p> <p>13 BY MR. HERSCHAFT..... 93</p> <p>14 BY MS. DUPUIS..... 96</p> <p>15 BY MR. KAJANDER..... 98</p> <p>16</p> <p>17</p> <p>18 WITNESS CORRECTIONS AND SIGNATURE..... 100</p> <p>19 REPORTER CERTIFICATION..... 102</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 CAPTAIN VIJAY CHERUKURI,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 E X A M I N A T I O N</p> <p>4 BY MR. HERSCHAFT:</p> <p>5 Q. Good morning, Capt. Vijay. Again, my</p> <p>6 name is Jeremy Herschaft. I'm one of the attorneys</p> <p>7 who represents the tugboats in this case.</p> <p>8 What we're going to do next is shift</p> <p>9 over to Topics Number 2 and 3. And that really</p> <p>10 relates to the training on the Bridge Management</p> <p>11 Manual on certain sections. I'm going to ask you a</p> <p>12 series of questions on these two topics; and then</p> <p>13 once I'm done, counsel for ITC will follow up on</p> <p>14 those two topics, because I believe you've been</p> <p>15 cross-designated as well.</p> <p>16 Can you hear me okay?</p> <p>17 A. Yes, I do.</p> <p>18 Q. Okay. Let's focus on Topic 2 first,</p> <p>19 which is the training that you provided to the</p> <p>20 officers on board the vessel.</p> <p>21 Which company is responsible for</p> <p>22 addressing training of crew? Is it Aframax or is it</p> <p>23 ESM?</p> <p>24 A. ESM.</p> <p>25 Q. And can you just generally describe the</p>

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<p style="text-align: right;">Page 6</p> <p>1 type of trainings that would have been provided to</p> <p>2 the crew of the Aframax at the time of this</p> <p>3 incident?</p> <p>4 A. Each of the crew member -- here, we're</p> <p>5 talking about all the officers, and ratings too.</p> <p>6 But first let me address with the officers.</p> <p>7 Each of them are well-trained,</p> <p>8 qualified and certified first by the government</p> <p>9 authorities in line with the international</p> <p>10 regulation, which is, STCW. That is Standard for</p> <p>11 Training and Certification of Watchkeepers. So each</p> <p>12 of them are certified, so they're well-qualified.</p> <p>13 After we pick them up, we give them</p> <p>14 further training in line with our company</p> <p>15 procedures. Here --</p> <p>16 Q. And --</p> <p>17 A. -- we are talking with regard to the</p> <p>18 navigators, the master, accompanied with our own</p> <p>19 bridge team management course. It's a five-day</p> <p>20 course with simulator training. So he's given</p> <p>21 practical hands-on skill training.</p> <p>22 So he goes through that as part of</p> <p>23 it; he handles the ship, he understands the theories</p> <p>24 and concepts of it and how to apply company's basic</p> <p>25 requirement with regarding to it, and also the</p>	<p style="text-align: right;">Page 8</p> <p>1 as Exhibit 5.</p> <p>2 Walk us through specifically how the</p> <p>3 company trains its officers on this specific manual.</p> <p>4 A. Okay. If you start first with bridge</p> <p>5 organization, there you have the bridge team. So</p> <p>6 how many people will be there in each watch,</p> <p>7 depending on where the ship is, in open waters,</p> <p>8 restricted waters, coasting or congested waters, in</p> <p>9 various conditions of visibility, weather, so on.</p> <p>10 Q. And if I could -- I don't mean to</p> <p>11 interrupt you, but maybe I could ask my question a</p> <p>12 different way.</p> <p>13 As I read this table of contents, it</p> <p>14 has various sections dealing with general guidance,</p> <p>15 the operation of certain machinery, certain specific</p> <p>16 requirements such as speed, the use of the engine,</p> <p>17 navigation, et cetera.</p> <p>18 A. Yes.</p> <p>19 Q. And how the does the company actually</p> <p>20 require -- or does the company require your officers</p> <p>21 to read this entire manual?</p> <p>22 A. Yes, sir. And by doing of a course, we</p> <p>23 are making them practice it in the simulator.</p> <p>24 Q. I see.</p> <p>25 So the course that you were talking</p>
<p style="text-align: right;">Page 7</p> <p>1 collision regulations and so on.</p> <p>2 And then he clears the test after</p> <p>3 the -- post, we conduct test, he passes through it,</p> <p>4 and only then he's employed on board our ship.</p> <p>5 Q. And I take it that type of training, it</p> <p>6 depends upon the level of the specific officer or</p> <p>7 rating; is that correct?</p> <p>8 A. Yes, sir. Now, the training that I said</p> <p>9 is for all navigating officers who are in charge of</p> <p>10 the bridge watch. So they understand the bridge</p> <p>11 team management concepts.</p> <p>12 Q. Okay.</p> <p>13 A. So third officer, second officer, chief</p> <p>14 officer and the captain.</p> <p>15 Q. And shifting over to Topic 3, now that</p> <p>16 you've talked about that in general, is it our</p> <p>17 understanding that the Bridge Management Manual that</p> <p>18 we have identified as Exhibit 5, that that is the</p> <p>19 manual that describes the general operation of the</p> <p>20 bridge and best practices for working as an officer</p> <p>21 in that particular area of the vessel?</p> <p>22 A. That is correct, sir.</p> <p>23 (Exhibit 5 marked/introduced.)</p> <p>24 Q. (BY MR. HERSCHAFT) We've attached the</p> <p>25 table of contents for the Bridge Management Manual</p>	<p style="text-align: right;">Page 9</p> <p>1 about earlier when you have them attend a simulator,</p> <p>2 it's in connection with learning how to use the</p> <p>3 Bridge Management Manual; correct?</p> <p>4 A. Practice, yes.</p> <p>5 Q. And the policies set forth therein;</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. Does the simulator course have an</p> <p>9 evolution where the simulated vessel might have an</p> <p>10 engine failure such as what occurred here?</p> <p>11 A. The simulator course follows an IMO</p> <p>12 standard. IMO has a standard for the --</p> <p>13 International Maritime Organization. If I remember</p> <p>14 correctly, it is IMO Standard 1.22. So this is a</p> <p>15 bridge team management course, so we follow that</p> <p>16 standard.</p> <p>17 The examples that we use, we take</p> <p>18 from industry, and we use simulations like you put</p> <p>19 in. And this is also case studies with it.</p> <p>20 Q. Okay. How often are your crew members</p> <p>21 required to attend the ESM course?</p> <p>22 [Simultaneous cross-talk.]</p> <p>23 Q. (BY MR. HERSCHAFT) Let me just repeat</p> <p>24 the question.</p> <p>25 What is the company's policy on</p>

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<p style="text-align: right;">Page 10</p> <p>1 attending the course, and how many times a year or</p> <p>2 month, et cetera, it needs to be recertified, if</p> <p>3 ever?</p> <p>4 A. Well, the bridge team management course,</p> <p>5 it is conducted on a five-year basis.</p> <p>6 Q. And is it your understanding that all of</p> <p>7 the individuals that were on the bridge at the time</p> <p>8 of the incident, that they were in compliance with</p> <p>9 the company's policies on attending that course?</p> <p>10 A. Yes.</p> <p>11 (Exhibit 6 marked/introduced.)</p> <p>12 Q. (BY MR. HERSCHAFT) Let's go to Exhibit</p> <p>13 6. And I'll just represent to you I'm not going to</p> <p>14 go through the entire manual. We've attached</p> <p>15 various exhibits, and there's some questions that I</p> <p>16 want to ask you on.</p> <p>17 Exhibit 6 is a section of the</p> <p>18 manual, AMR 1979, and it talks about Bridge Resource</p> <p>19 Management.</p> <p>20 Can you generally describe for us</p> <p>21 what the company means by "Bridge Resource</p> <p>22 Management."</p> <p>23 A. When we say "Bridge Resource</p> <p>24 Management," it means how the navigator handles all</p> <p>25 the resources at his disposal. So there are various</p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes. 19 --</p> <p>2 Q. Would you describe -- I'm sorry?</p> <p>3 A. On 1980 it is on.</p> <p>4 Q. I'm sorry, 1979. 1979.</p> <p>5 I'm looking at "THE BRIDGE TEAM."</p> <p>6 A. Yes.</p> <p>7 Q. There's a comment that says: "Bridge</p> <p>8 Resource Management...shall be implemented such that</p> <p>9 the Bridge Team: Eliminates the risk that an error</p> <p>10 on the part of one person on board the vessel may</p> <p>11 result in a disastrous situation."</p> <p>12 Do you see that, sir?</p> <p>13 A. Yes.</p> <p>14 Q. Looking back, I take it you would</p> <p>15 describe this situation as a disastrous situation?</p> <p>16 A. In hindsight, yes. And here --</p> <p>17 Q. In all -- go ahead.</p> <p>18 A. Sorry.</p> <p>19 Q. I didn't mean to interrupt.</p> <p>20 A. So, yes, in hindsight, it was</p> <p>21 disastrous. If you mean to say error on one part</p> <p>22 resulted in that, yes, because of the action of the</p> <p>23 tug, it did contribute to that, yes.</p> <p>24 MR. HERSCHAFT: Well, I'm going to</p> <p>25 object to form, because that wasn't my</p>
<p style="text-align: right;">Page 11</p> <p>1 aspects to it: one from the people; another from</p> <p>2 the occupant on board; third, from the weather or</p> <p>3 external factors; certain areas, the traffic is</p> <p>4 more; certain areas, the navigation hazards are</p> <p>5 more; certain areas, the currents, tides, the</p> <p>6 weather factors are good, bad, so on. Depending on</p> <p>7 various aspects, is the people on bridge sufficient</p> <p>8 to handle the situation.</p> <p>9 This includes keeping the ship</p> <p>10 always safe, for which you have to plot, monitor, so</p> <p>11 on, so forth. You have to do various sequence of</p> <p>12 actions.</p> <p>13 Q. And if I understand from Exhibit 6 and</p> <p>14 your company's policies, the master has the</p> <p>15 overriding authority and responsibility with respect</p> <p>16 to the safety of those decisions; correct?</p> <p>17 A. Yes.</p> <p>18 Q. This policy also says that situational</p> <p>19 awareness is important as well; correct?</p> <p>20 A. Yes, that's correct.</p> <p>21 Q. There's a statement here that says that</p> <p>22 "Eliminates the risk that an error on the part of</p> <p>23 one person on board the vessel may result in a</p> <p>24 disastrous situation."</p> <p>25 Do you see that, sir? On page 1979?</p>	<p style="text-align: right;">Page 13</p> <p>1 answer -- that wasn't my question.</p> <p>2 Q. (BY MR. HERSCHAFT) We can talk about</p> <p>3 what you just said about the actions of the tug in a</p> <p>4 moment, but I'm going to continue on asking you</p> <p>5 questions about this.</p> <p>6 One of the other portions of this</p> <p>7 manual at page 1980 says that the pilot is a member</p> <p>8 of the bridge team; is that correct?</p> <p>9 A. Yes, sir, you are correct.</p> <p>10 Q. Okay. And even though the pilot is on</p> <p>11 board, it is the company's policy that the master</p> <p>12 still has ultimate responsibility over the bridge;</p> <p>13 is that correct?</p> <p>14 A. Yes, sir. You are correct.</p> <p>15 Q. Another policy that you have on 1980, on</p> <p>16 page 1980 of Exhibit 6, is that there should be an</p> <p>17 avoidance of "...any Bridge Team member becoming</p> <p>18 preoccupied with minor technical problems (and thus</p> <p>19 losing sight of the big picture of the passage)"; is</p> <p>20 that correct?</p> <p>21 A. Yes, sir.</p> <p>22 Q. Are you aware --</p> <p>23 A. Yes.</p> <p>24 Q. Hang on a second.</p> <p>25 Are you aware of statements from</p>

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<p style="text-align: right;">Page 14</p> <p>1 your third officer, Sajeev, that he gave to the</p> <p>2 Coast Guard that at the time the engine went past 30</p> <p>3 rpms, he was doing notes on the bridge? Are you</p> <p>4 aware of that, sir?</p> <p>5 MR. HAROWSKI: Objection to form.</p> <p>6 A. I don't recall exactly what the third</p> <p>7 officer said. I don't have it with me, and I can't</p> <p>8 recall exactly what was the statement that he gave.</p> <p>9 Q. (BY MR. HERSCHAFT) Okay. If you go to</p> <p>10 page 1981 of Exhibit No. 6. I'm just continuing</p> <p>11 forward through the manual.</p> <p>12 A. 1981.</p> <p>13 Q. That, again, just confirms that the</p> <p>14 master's overall responsible for the safe</p> <p>15 navigation; correct?</p> <p>16 A. That is correct, sir.</p> <p>17 (Exhibit 7 marked/introduced.)</p> <p>18 Q. (BY MR. HERSCHAFT) I'd like to direct</p> <p>19 your attention to Exhibit 7.</p> <p>20 In the middle of this page, which is</p> <p>21 1988, it says: "Communication between all bridge</p> <p>22 team members should be in English. When a pilot is</p> <p>23 on board, the same rule should apply."</p> <p>24 Do you see that?</p> <p>25 A. Yes, sir. "Use of English." [As read]</p>	<p style="text-align: right;">Page 16</p> <p>1 Q. Okay. There's a section in the manual</p> <p>2 that talks about speed. If I could direct you to</p> <p>3 that section. It's 1.12.</p> <p>4 Do you see that, sir?</p> <p>5 A. "SPEED," 1.12, yes.</p> <p>6 Q. Yeah.</p> <p>7 And the first sentence of that says:</p> <p>8 "Vessels shall at all times proceed at a safe speed</p> <p>9 taking into account all factors stated in Rule 6 of</p> <p>10 COLREGS."</p> <p>11 Can you describe for us what</p> <p>12 "COLREGS" means?</p> <p>13 A. Collision -- COLREGS is abbreviation,</p> <p>14 rather short form for collision regulations.</p> <p>15 Q. Sure.</p> <p>16 A. These are the rules based on which all</p> <p>17 ships out on the high seas navigate. It tells you</p> <p>18 how ships should act when you're alongside of one</p> <p>19 another and also when you don't see them because of</p> <p>20 poor visibility; what lights, what sound signals, so</p> <p>21 on.</p> <p>22 Q. And they're commonly referred to as the</p> <p>23 rules of the road; correct?</p> <p>24 A. Yes, that is correct, sir.</p> <p>25 (Exhibit 9 marked/introduced.)</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. I'll represent to you --</p> <p>2 A. Yes.</p> <p>3 Q. -- that -- I'll represent to you that</p> <p>4 we've been provided the VDR, the voyage data</p> <p>5 recorder, for the Aframax, and in the time frame</p> <p>6 from one minute, or 000, on the 6th all the way up</p> <p>7 to the moment of the allision, we can hear people</p> <p>8 speaking on the bridge in a non-English language</p> <p>9 which we understand to be Hindi.</p> <p>10 If that is, in fact, correct,</p> <p>11 wouldn't that be a violation of your company's</p> <p>12 policy?</p> <p>13 MR. HAROWSKI: Objection to form.</p> <p>14 Please go ahead and answer.</p> <p>15 A. I am not aware of that exact details.</p> <p>16 Q. (BY MR. HERSCHAFT) Just assuming that</p> <p>17 that was true, that people were not using English,</p> <p>18 wouldn't that be a violation of your company's</p> <p>19 policy? Subject to Mr. Harowski's objection.</p> <p>20 A. They should communicate in English, yes.</p> <p>21 Q. I'd like to move on to Exhibit No. 8.</p> <p>22 (Exhibit 8 marked/introduced.)</p> <p>23 Q. (BY MR. HERSCHAFT) If you can turn the</p> <p>24 page there, sir. Let me know when you're there.</p> <p>25 A. Yes, I'm on Exhibit 8.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. (BY MR. HERSCHAFT) Okay. And I just</p> <p>2 note for the record, we've also attached as Exhibit</p> <p>3 9 a copy of the United States Coast Guard's</p> <p>4 Navigation Rules &amp; Regulations for Rule 6, which is</p> <p>5 referred to in your company manual.</p> <p>6 Do you see that, sir?</p> <p>7 A. Yes, sir, I do.</p> <p>8 Q. And also, Rule 6 is divided into</p> <p>9 international rules and then the inland rules; is</p> <p>10 that correct?</p> <p>11 A. Correct, sir.</p> <p>12 Q. Now, if you look at Inland Rule 6, and</p> <p>13 reading it into the record, it says -- just the</p> <p>14 first sentence -- "Every vessel shall at all times</p> <p>15 proceed at a safe speed so that she can take proper</p> <p>16 and effective action to avoid collision and be</p> <p>17 stopped within a distance appropriate to the</p> <p>18 prevailing circumstances and conditions."</p> <p>19 Do you see that, sir?</p> <p>20 A. Yes, sir, I do.</p> <p>21 Q. Would you agree with me that the concept</p> <p>22 or term "safe speed," that that's a relative term?</p> <p>23 A. Agree, sir. Depending on the situation.</p> <p>24 Q. Sure.</p> <p>25 What might be a safe speed in one</p>

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18 to 21

<p style="text-align: right;">Page 18</p> <p>1 situation may not be a safe speed in another;  2 correct?  3 A. Correct, sir, depending on traffic and  4 dangers, yes. Again, conditions.  5 Q. Sure.  6 And it's my understanding,  7 when -- with respect to this manual -- and we'll  8 talk about pilots in a second -- but we've seen  9 documents that have been produced by Aframax that  10 show that there were a master pilot exchange that  11 occurred on the date of this incident; correct?  12 A. Yes, sir. To my understanding.  13 Q. And is that in accordance with your  14 policy that before a vessel begins maneuvers with a  15 pilot on board, you want to discuss what is the  16 anticipated speed; correct?  17 A. Yes, sir. During master pilot exchange,  18 yes.  19 Q. Sure.  20 We've also heard testimony that in  21 this instance, and seeing evidence, that the engine  22 that was operated during this time frame was  23 intended to be at about 30 rpms, but that eventually  24 it went up to about 80 rpms; are you aware of that?  25 A. Yes, sir. Momentary failure, yes, I am</p>	<p style="text-align: right;">Page 20</p> <p>1 that the vessel was backing the whole time, and that  2 as a result of that speed, they had difficulty  3 controlling the vessel, wouldn't that be an unsafe  4 speed?  5 MR. HAROWSKI: Objection to the  6 form.  7 Please answer.  8 A. If they're choosing to say a selective  9 version of the story, yes. But the fact of the  10 matter is, it was not so. Because --  11 Q. (BY MR. HERSCHAFT) Upon what basis do  12 you --  13 [Simultaneous cross-talk.]  14 A. It is based on this fact, the speed that  15 the ship achieved, maximum speed, because of the  16 momentary failure, was 3 knots. 3 knots in this  17 case -- sorry. Go ahead.  18 Q. (BY MR. HERSCHAFT) I didn't mean to  19 interrupt you, sir.  20 So it's your understanding that the  21 maximum speed was 3 knots, correct, astern?  22 A. Astern, yeah, right, sir. 3 knots  23 astern. Slightly limited, very small, in a fraction  24 more, about three knots.  25 Q. If the VDR showed that the maximum</p>
<p style="text-align: right;">Page 19</p> <p>1 aware of it.  2 Q. And that that resulted in an astern  3 speed that was not contemplated by the vessel or the  4 pilot; correct?  5 A. It was a small increase in speed, yes.  6 But very much controllable.  7 Q. Upon what basis are you giving your  8 opinion that it was a momentary small increase?  9 What documents have you reviewed to provide that  10 opinion?  11 A. The NTSB report says it, and we could  12 see it in the ship's VDR data. And third, to my  13 best of my knowledge, the technicians came and said  14 they couldn't even reenact the failure because it  15 just happened and went back to normal.  16 Q. Right.  17 But the technician's report doesn't  18 talk anything about timing, does it?  19 A. It doesn't talk about timing. However,  20 on the ship, we could see that the failure was very  21 short duration and ship was back -- engines were  22 available within two minutes, if I'm not mistaken.  23 I can't exactly recall the exact timings. Less than  24 that.  25 Q. If the pilots and the tug captain said</p>	<p style="text-align: right;">Page 21</p> <p>1 astern speed was, in fact, 3.7 knots, would that  2 change your testimony? I'll just represent to you  3 that that's what the VDR says.  4 A. Still, I will stick to my statement. It  5 was very much controllable in regards to the action  6 the vessel was supposed to do.  7 Q. If the pilot and -- well, if the pilot  8 said that they never got any of the ahead bells they  9 had asked for, wouldn't that be an unsafe condition?  10 A. Could you repeat? I didn't get that  11 part clear, sir.  12 Q. Sure.  13 If the pilots had said that they did  14 not get any ahead bells on the engine order from the  15 time they made those orders leading up to the moment  16 of the allision with the piling, wouldn't that be an  17 unsafe condition?  18 MR. HAROWSKI: Objection to form.  19 A. If it was true, it would be so. But the  20 fact, this engine did go ahead.  21 Q. (BY MR. HERSCHAFT) And upon what --  22 what evidence do you have to show that?  23 A. Well, the fact is, the video recording  24 and the telegraph moment shows that engine did  25 respond, and engine went ahead. And, in fact, few</p>

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22 to 25

<p style="text-align: right;">Page 22</p> <p>1 seconds also before the collision, even went up to</p> <p>2 full ahead. As the pilot give an order of full</p> <p>3 ahead.</p> <p>4 Q. If your master who was on the bridge</p> <p>5 testified that, in fact, they had called for the</p> <p>6 engine order to stop and that it did not stop, that</p> <p>7 would be a problem, would it not?</p> <p>8 A. Yes, if he feels that, that would be a</p> <p>9 problem. But what was the fact? The fact was,</p> <p>10 engine did stop. It only took him a minute or so to</p> <p>11 realize it. At that moment initially, yes.</p> <p>12 Q. And you were not on the bridge at the</p> <p>13 time; correct?</p> <p>14 A. That is correct, sir.</p> <p>15 Q. So that the best record of what</p> <p>16 would -- what would have occurred in this timing</p> <p>17 would be the testimony from your master; right? His</p> <p>18 recollection?</p> <p>19 A. Yes, sir.</p> <p>20 Q. And also the -- hang on. Also the</p> <p>21 recollections of the pilots who were calling for</p> <p>22 those orders?</p> <p>23 A. Yes, if I could answer. Yes, that would</p> <p>24 be correct, based on facts. If it's based only on</p> <p>25 perception --</p>	<p style="text-align: right;">Page 24</p> <p>1 I'm just trying to understand where the company is</p> <p>2 coming up with those positions. That's all.</p> <p>3 A. If I could answer.</p> <p>4 Q. Yes.</p> <p>5 A. After the incident, with lawyer's help,</p> <p>6 we did conduct investigation. So from that</p> <p>7 information, this is what I know of.</p> <p>8 Q. And that was -- that investigation was</p> <p>9 presumably done in 2016, shortly after the incident;</p> <p>10 correct?</p> <p>11 A. Yes, sir. With the lawyer's</p> <p>12 collaboration and their involvement. In fact, they</p> <p>13 took charge of it because we anticipated it will be</p> <p>14 a litigation immediately after seeing the</p> <p>15 consequence.</p> <p>16 MR. HERSCHAFT: Give me one second.</p> <p>17 Q. (BY MR. HERSCHAFT) Do you know what</p> <p>18 the -- because you had mentioned a second ago</p> <p>19 about -- when we were talking about the pilots and</p> <p>20 we were talking about the rpms, do you recall what</p> <p>21 the maximum rated astern speed for the Aframax is?</p> <p>22 A. No. Offhand from my memory, full ahead</p> <p>23 and full astern, I think. I'm not sure. I'm not</p> <p>24 sure.</p> <p>25 Q. I'll make a representation to you that</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. Right.</p> <p>2 But the fact in this case --</p> <p>3 A. -- that would be incorrect.</p> <p>4 Q. The fact in this case is that your</p> <p>5 engine order telegraph was not responding to</p> <p>6 commands.</p> <p>7 Do you dispute that?</p> <p>8 A. I said that initially, and it was</p> <p>9 momentary. The way I understand, the movement, like</p> <p>10 you said, was given around 23:59 and a half, and the</p> <p>11 engine went up to slow astern -- that was the</p> <p>12 movement given -- by midnight.</p> <p>13 Around first or one and a half</p> <p>14 minute, somewhere around there, they realized it had</p> <p>15 exceeded or it had momentarily gone more than what</p> <p>16 was planned.</p> <p>17 By this two and a half or two --</p> <p>18 somewhere around there, two and a half minutes, they</p> <p>19 had stopped and engine had started slowing down.</p> <p>20 By the three and a half minute, it</p> <p>21 had already stopped.</p> <p>22 So engine did respond.</p> <p>23 Q. Have you reviewed any documents to make</p> <p>24 those statements that various things happened at</p> <p>25 various times? Have you taken any notes on that?</p>	<p style="text-align: right;">Page 25</p> <p>1 on the pilot card, which Aframax River 92 and 93 --</p> <p>2 I have not included it as an exhibit, but we've been</p> <p>3 talking about -- that the full astern speed is 62</p> <p>4 rpms.</p> <p>5 Does that sound about right?</p> <p>6 A. Sounds -- yeah, it could be close to</p> <p>7 that or could be a little -- slightly more.</p> <p>8 Q. And you had also mentioned the NTSB</p> <p>9 investigation.</p> <p>10 Are you aware that the NTSB</p> <p>11 concluded that the vessel ultimately reached up to</p> <p>12 80 rpms?</p> <p>13 A. Yes, sir. 80 rpm, yes.</p> <p>14 (Exhibit 10 marked/introduced.)</p> <p>15 Q. (BY MR. HERSCHAFT) Let's go to Exhibit</p> <p>16 10, which is another section of the manual that</p> <p>17 deals with pilotage^ .</p> <p>18 You see that, sir?</p> <p>19 A. Yes, sir. 1.21, "PILOTAGE."</p> <p>20 Q. On page AMR 2003, there's a reference to</p> <p>21 "IMO Resolution A.285."</p> <p>22 Do you see that, sir?</p> <p>23 A. Yes, sir, I do.</p> <p>24 Q. And just to generally summarize that,</p> <p>25 that is a company policy and an IMO resolution that</p>

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26 to 29

<p style="text-align: right;">Page 26</p> <p>1 even though a pilot is on board, it's the officer of 2 watch's responsibility to continue with his 3 responsibility, isn't it? Just because the pilot is 4 on board, he's not relieved of those 5 responsibilities; correct? 6 A. Yes, sir, you are correct. 7 Q. Okay. And turning to page 2004, again, 8 it's confirmed that it's your company's policy that 9 the presence of a pilot on board doesn't relieve the 10 master or the officer of watch on their 11 responsibility to safely navigate the vessel; 12 correct? 13 A. Yes, sir, you're correct, that is 14 company's policy. 15 Q. Okay. And then also on page 2005 -- and 16 we talked about this a few minutes ago -- during 17 that master pilot exchange, that is where proposed 18 speeds are discussed; correct? And that's -- if you 19 look at page 2005, it says: "During the 20 Master-Pilot exchange, the Master shall confer with 21 the pilot about," among other things, "Proposed 22 courses, speeds," et cetera. 23 Do you see that? 24 A. Yes, sir. Point c. B(c). In B -- 25 Section B, Point c, yes, proposed course, speed,</p>	<p style="text-align: right;">Page 28</p> <p>1 perfect, it will come to that exact number. 2 Q. Would you describe a jump from 30 rpms 3 to 80 rpms to be a little bit more or a significant 4 amount more? 5 A. I will say you should see it in totality 6 as in rpm with time. If it increased, for how long 7 did it increase? If it increased, how much speed 8 did it cause to increase? 9 In this case, the ship's dead slow 10 astern speed is up to 5.7, 5.5. Exact value, I 11 don't remember. It's around 5 1/2, if I recall 12 correctly. And ship went nowhere close to even 13 that. She went up to 3 1/2, as you were saying. 14 So in this case, the rpm did 15 increase, it was momentarily, and it was brought 16 into control within three minutes. Exact time, I 17 haven't calculated. I think it is within three 18 minutes. 19 Q. But, again, you weren't on the vessel, 20 so the best source of what was going on would be the 21 people that were on board the tugs and the 22 electronic data that we have; correct? 23 A. Of course I was not on board, but you're 24 asking for me and my company's opinion based on the 25 facts. This is where it stands.</p>
<p style="text-align: right;">Page 27</p> <p>1 yes. 2 Q. And if the vessel exceeded the proposed 3 speed for this particular evolution, wouldn't that 4 be a violation of your company's policy? 5 MR. HAROWSKI: Objection. 6 Q. (BY MR. HERSCHAFT) You can answer. 7 A. It would be a violation of company's 8 policy because USA is just simple as black and 9 white, which is not true. 10 Q. I'm sorry, I didn't catch that sentence 11 again. Can you please repeat that? 12 A. You're saying it is in black and white, 13 as if 2 means exact 2.00000 decimal. It never works 14 like that on a ship. 15 Q. Okay. Well, then what's the point of 16 putting a maximum speed on your company's pilot card 17 or pre-navigation checklist? 18 A. That is the expected in that passage at 19 that time. That is what they anticipate, and they 20 will have it around that range. It could be few, a 21 little bit more, a little bit less. As they are 22 moving, they're taking action, they're assessing 23 continuously and then doing what is required. 24 Maybe, if need be, they'll increase a little more or 25 drop it a little bit. But it will never give</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Okay. Could you turn to page 2006 in 2 that same exhibit. It says: "Some of the equipment 3 which may only be operated by the Bridge Team are:" 4 And then in b, it says: "Main engine controls and 5 telegraphs." 6 Do you see that, sir? 7 A. Which point are you referring to, sir, 8 on page 2006? 9 Q. I'm on Exhibit 10, page 2006, and 10 there's a Section 2. It's under the heading "Use of 11 Ship's equipment by the Pilot. 2. Some of the 12 equipment which may only be operated by the Bridge 13 Team are:" And then it's "b. Main engine controls 14 and telegraphs." 15 Do you see that, sir? 16 A. Yes, sir, I see that. 17 Q. So that, if I understand your company's 18 policy, only the crew can be touching those specific 19 controls; correct? 20 A. If you mean controls only, yes. But the 21 propulsion of the speed at which it should go, that, 22 the pilot does. If you mean only controls, yes. 23 Operate the controller. 24 Q. Right. And that's a fair point. 25 The pilot will issue an order dead</p>

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<p>1 slow astern, but the actual individual who is</p> <p>2 physically making that order would be the officer in</p> <p>3 charge of the engine order telegraph for that</p> <p>4 particular evolution; correct?</p> <p>5 A. That is correct, sir.</p> <p>6 MR. HERSCHAFT: Pam, are you there?</p> <p>7 MS. DUPUIS: I am.</p> <p>8 MR. HERSCHAFT: If you can just give</p> <p>9 me one second, I think I'm done with this</p> <p>10 section. If you just give me one second,</p> <p>11 I'll tender him in one moment.</p> <p>12 MS. DUPUIS: Okay.</p> <p>13 MR. HERSCHAFT: Sir, I don't have</p> <p>14 any more questions for you on these two</p> <p>15 particular topics. I'm going to tender</p> <p>16 the witness. But I'll preserve any</p> <p>17 follow-up questions if I need to.</p> <p>18 MS. DUPUIS: Okay. Thanks.</p> <p>19 MR. HAROWSKI: Mike -- Pam, sorry.</p> <p>20 Jeremy, I just want to clarify, you</p> <p>21 have -- you're going to come back to the</p> <p>22 same witness for another topic; is that</p> <p>23 correct?</p> <p>24 MR. HERSCHAFT: I am. I mean,</p> <p>25 however you guys would like to do it. I'm</p>	<p>1 you know, in the manual.</p> <p>2 MS. DUPUIS: Let's do it by topic,</p> <p>3 then. That's how we're doing it. So I</p> <p>4 agree, Jeremy. I just have a couple</p> <p>5 questions on the topics you were just</p> <p>6 discussing, and then we'll switch back.</p> <p>7 Sorry for the confusion.</p> <p>8 MR. HERSCHAFT: That's okay.</p> <p>9 E X A M I N A T I O N</p> <p>10 BY MS. DUPUIS:</p> <p>11 Q. All right. So have you read,</p> <p>12 Captain Arvind Kumar's deposition transcript?</p> <p>13 A. No, ma'am. Fully, no.</p> <p>14 Q. Okay. I assume -- who is Capt. Kumar,</p> <p>15 do you know?</p> <p>16 A. Yes, ma'am. He was the master of the</p> <p>17 ship on that day and time. Captain Arvind Kumar.</p> <p>18 Q. Okay. Let me read to you a portion of</p> <p>19 his deposition. Since you haven't reviewed it, you</p> <p>20 might not be aware that this is his testimony. He</p> <p>21 was asked: "Would you agree with me that prior --</p> <p>22 just prior -- the six minutes prior to the allision</p> <p>23 in question, that the vessel's engine was not</p> <p>24 responding to the bridge engine order telegraph</p> <p>25 commands?"</p>
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<p>1 happy to go through each topic; and then</p> <p>2 when I'm done, if Pam has cross-Noticed</p> <p>3 it, which is how we would normally do</p> <p>4 it -- this deposition is just a bit</p> <p>5 unusual because it's all on Zoom.</p> <p>6 Pam, does that make sense for you?</p> <p>7 MS. DUPUIS: That's fine.</p> <p>8 MR. HERSCHAFT: Yeah, rather</p> <p>9 than -- I mean, I could also go through</p> <p>10 all of his and then have her go through it</p> <p>11 as well; but, Pam, what's your preference?</p> <p>12 Just as we described, I'll go through a</p> <p>13 topic, and then once I'm done, I'll shift</p> <p>14 it over to you?</p> <p>15 MS. DUPUIS: Mike, do you have an</p> <p>16 opinion? I guess I don't have an opinion</p> <p>17 about it.</p> <p>18 MR. HAROWSKI: I'm kind of</p> <p>19 indifferent. I mean, however you guys</p> <p>20 want to do it.</p> <p>21 I just want to clarify, he's also</p> <p>22 identified for the company's investigation</p> <p>23 portion of the Notice, and I know that</p> <p>24 -- I think you've covered the -- you know,</p> <p>25 the training and implementation of that,</p>	<p>1 He responded: "Prior to the</p> <p>2 allision six minutes -- six minute -- just at six</p> <p>3 minute prior, they started --</p> <p>4 "QUESTION: During -- okay. Let me</p> <p>5 rephrase that.</p> <p>6 "During the period from when you</p> <p>7 started the unberthing procedure about 30</p> <p>8 seconds before midnight, until the time</p> <p>9 that the engine room hit the emergency</p> <p>10 stop button, which was" --</p> <p>11 His answer: "Five minutes.</p> <p>12 "QUESTION: -- about five minutes</p> <p>13 after midnight --</p> <p>14 "ANSWER: Yeah.</p> <p>15 "QUESTION: -- do you agree that the</p> <p>16 vessel's engine was not responding to the</p> <p>17 bridge engine order telegraph commands?"</p> <p>18 His answer was: "Yes.</p> <p>19 "QUESTION: You agree with that?"</p> <p>20 His answer is: "Yes.</p> <p>21 "QUESTION: During that period, 30</p> <p>22 seconds before midnight until 5 minutes</p> <p>23 after, do you agree that the vessel became</p> <p>24 stuck in the astern direction?</p> <p>25 "ANSWER: Yes. Stop given, but it</p>

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34 to 37

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<p>1 is not responding [sic]."</p> <p>2 So are you testifying today that</p> <p>3 Capt. Kumar, who was on board the vessel</p> <p>4 during the incident in question, is</p> <p>5 incorrect in these statements?</p> <p>6 MR. HAROWSKI: I'm going to object</p> <p>7 to the form of that question.</p> <p>8 Please go ahead and answer, Captain.</p> <p>9 A. Based on the facts, I think he's not</p> <p>10 entirely correct. He's told you based on</p> <p>11 perception, but the data shows the engine did</p> <p>12 respond before that.</p> <p>13 Q. (BY MS. DUPUIS) And what data are you</p> <p>14 relying on by that statement?</p> <p>15 A. The engine telegraph data.</p> <p>16 Q. What if that is incorrect?</p> <p>17 MR. HAROWSKI: Objection.</p> <p>18 A. On what would you base that, ma'am?</p> <p>19 Q. (BY MS. DUPUIS) What are you basing on</p> <p>20 the assumption that once the ship is already having</p> <p>21 one malfunction, why is it not possible that the</p> <p>22 engine telegraph -- engine order telegraph logs are</p> <p>23 incorrect or malfunctioning?</p> <p>24 MR. HAROWSKI: Objection to form.</p> <p>25 Please answer.</p>	<p>1 Q. (BY MS. DUPUIS) Okay. So just to be</p> <p>2 clear, the facts that you're relying on are solely</p> <p>3 the engine order telegraph logs; correct?</p> <p>4 A. Yes, ma'am. Telegraph log is one of</p> <p>5 them. And there's an rpm counter, which, again, is</p> <p>6 recorded.</p> <p>7 Q. Does the rpm counter indicate a change</p> <p>8 of direction?</p> <p>9 A. Not that I know of. I'm not qualified</p> <p>10 in the technical aspect of this exact details. I</p> <p>11 would not know. As a master mariner, I would know</p> <p>12 the telegraph clearly records ahead and astern with</p> <p>13 the counter at that time.</p> <p>14 MS. DUPUIS: I'll pass the witness.</p> <p>15 Thank you.</p> <p>16 MR. KAJANDER: I have a few</p> <p>17 questions.</p> <p>18 EXAMINATION</p> <p>19 BY MR. KAJANDER:</p> <p>20 Q. Can you tell me, please, where the rpm</p> <p>21 counter records are maintained?</p> <p>22 A. First, one place is the -- along with</p> <p>23 the telegraph, it is printed. So it says dead slow</p> <p>24 astern, but then it shows a counter reading. Then</p> <p>25 it goes to next movement, stop, it records again, so</p>
Page 35	Page 37
<p>1 A. Because before, during or later, there</p> <p>2 is no evidence to say that the telegraph</p> <p>3 malfunctioned.</p> <p>4 Q. (BY MS. DUPUIS) Other than the allision</p> <p>5 with the mooring dolphins; correct?</p> <p>6 MR. HAROWSKI: Objection.</p> <p>7 A. You're talking two different things,</p> <p>8 ma'am. Telegraph is different from the engine. If</p> <p>9 you say the ship did collide with the mooring</p> <p>10 dolphin, yes, it collided because the tugs did not</p> <p>11 pull her and align her in the channel.</p> <p>12 MR. HERSCHAFT: Object to form.</p> <p>13 Q. (BY MS. DUPUIS) Well, Capt. Kumar</p> <p>14 appeared to think that the allision occurred because</p> <p>15 the ship was not responding to the commands from the</p> <p>16 bridge for it to stop.</p> <p>17 Are you saying that Capt. Kumar is</p> <p>18 incorrect?</p> <p>19 MR. HAROWSKI: I'm going to object</p> <p>20 to the mischaracterization of the -- Capt.</p> <p>21 Kumar's testimony.</p> <p>22 Go ahead and answer, Captain.</p> <p>23 A. If what you say is true, then he's told</p> <p>24 it based on perception and not facts, as being</p> <p>25 recorded by the devices.</p>	<p>1 on, so forth.</p> <p>2 Another one place that I know of, it</p> <p>3 records in engine room in the -- the computer in the</p> <p>4 system down in engine room.</p> <p>5 Q. Have you reviewed those documents, sir?</p> <p>6 A. Me personally, all of them, no, sir.</p> <p>7 Q. So you cannot testify as to what the rpm</p> <p>8 speed was throughout the short voyage between -- of</p> <p>9 the -- during the departure of the Aframax River,</p> <p>10 can you, sir?</p> <p>11 MR. HAROWSKI: Objection to form of</p> <p>12 that.</p> <p>13 A. If you mean the telegraph record, yes, I</p> <p>14 did look from dead slow astern when she left the</p> <p>15 berth, the record. There is a recording when, after</p> <p>16 berth, they did. The first movement she gave, dead</p> <p>17 slow astern as she left the berth. And then after</p> <p>18 when they give the stop. And finally, after they</p> <p>19 did stop, they gave dead slow ahead. They felt that</p> <p>20 the movement didn't come. They activated emergency</p> <p>21 stop, they gave dead slow ahead, and then they went</p> <p>22 dead full ahead.</p> <p>23 Q. (BY MR. KAJANDER) My question was: You</p> <p>24 could not testify, based on your review of the</p> <p>25 documents, that the rpm indicator showed a change</p>

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<p style="text-align: right;">Page 38</p> <p>1 for a decrease in the rpm from the 80 rpm it got to,</p> <p>2 could you, sir?</p> <p>3 MR. HAROWSKI: Objection. I think</p> <p>4 we're talking about an rpm counter, which</p> <p>5 is different.</p> <p>6 MR. KAJANDER: The rpm counter, I'm</p> <p>7 sorry.</p> <p>8 A. Exactly.</p> <p>9 Q. (BY MR. KAJANDER) Let me rephrase the</p> <p>10 question.</p> <p>11 You did not review the rpm counter</p> <p>12 to ascertain whether or not the rpms</p> <p>13 actually -- actually came down after the telegraph</p> <p>14 said stop, did you, sir?</p> <p>15 A. The rpm value printed out on the</p> <p>16 telegraph recorder, yes, that, I did; but not on the</p> <p>17 rpm myself, no, sir. You are right on that part.</p> <p>18 Q. So you do not know if the rpm counter</p> <p>19 actually corresponded with the orders from the</p> <p>20 telegraph, do you, sir?</p> <p>21 MR. HAROWSKI: Objection to the</p> <p>22 form.</p> <p>23 A. If it's only about rpm counter, yes, I</p> <p>24 have not reviewed it.</p> <p>25 Q. (BY MR. KAJANDER) So the testimony from</p>	<p style="text-align: right;">Page 40</p> <p>1 recorder which records the rpm too, along with the</p> <p>2 movement. From there, I can make out the fact that</p> <p>3 the rpm -- what had changed and how it changed.</p> <p>4 Q. Is it the obligation of the master to</p> <p>5 follow the instructions provided on the master pilot</p> <p>6 exchange as to the speed of the vessel at departure?</p> <p>7 MR. HAROWSKI: I'm going to object</p> <p>8 on asked and answered.</p> <p>9 But please go ahead, Capt. Vijay.</p> <p>10 A. Master has to give the speed as they</p> <p>11 agreed.</p> <p>12 Now, what happens in practices, they</p> <p>13 agree initially to a value. As they go along, the</p> <p>14 pilot is free to make adjustments above or below as</p> <p>15 he deems fit. And master agrees with it, and that</p> <p>16 is also adjusted. That's why the value is not</p> <p>17 exactly fixed; it varies as the events take place.</p> <p>18 Q. (BY MR. KAJANDER) What is the training</p> <p>19 for your masters concerning the time -- the</p> <p>20 circumstances under which one would engage the</p> <p>21 emergency stop button to stop the engines? Under</p> <p>22 what circumstances are they trained to do that?</p> <p>23 A. To activate emergency stop, master</p> <p>24 should have a reason. One would be excessive</p> <p>25 speeding, it's going out of control ahead or astern.</p>
<p style="text-align: right;">Page 39</p> <p>1 the master of the vessel that the rpm continued to</p> <p>2 accelerate as opposed to decelerate when the stop</p> <p>3 order was given may be accurate; is that correct,</p> <p>4 sir?</p> <p>5 MR. HAROWSKI: Objection to the</p> <p>6 form.</p> <p>7 A. It is not correct based on the facts,</p> <p>8 sir. On perception, yes.</p> <p>9 Q. (BY MR. KAJANDER) Did you ever -- do</p> <p>10 you have knowledge of the record generated by the</p> <p>11 rpm counter, sir?</p> <p>12 A. As recorded in the telegraph printout,</p> <p>13 yes, that is from the rpm counter, so it shows the</p> <p>14 rpm value there.</p> <p>15 Q. It shows the order. You just testified</p> <p>16 that you have not seen the rpm counter, sir.</p> <p>17 MR. HAROWSKI: Objection.</p> <p>18 A. You're talking about different things</p> <p>19 here.</p> <p>20 THE WITNESS: Sorry.</p> <p>21 Q. (BY MR. KAJANDER) That is correct, I am</p> <p>22 talking two different things.</p> <p>23 And there is a difference, is there</p> <p>24 not, between the telegraph and the rpm counter?</p> <p>25 A. I am talking about the telegraph digital</p>	<p style="text-align: right;">Page 41</p> <p>1 And in very rare case, if he feels engine is not</p> <p>2 responding, to maybe reset it, it would still</p> <p>3 activate it. But typically ahead excessive speed.</p> <p>4 Q. And that is based on the master's</p> <p>5 judgment; is that correct, sir?</p> <p>6 A. Yes, sir. Typically, master judgment;</p> <p>7 and in this case, chief engineer would advise him</p> <p>8 where he wants expert advice. Chief engineer is</p> <p>9 more correct on technical aspect.</p> <p>10 Q. If they -- if excessive speed is a</p> <p>11 circumstance in which a master or a chief engineer</p> <p>12 might utilize the emergency stop switch, is it true</p> <p>13 that both the master and the chief engineer should</p> <p>14 be close -- should be standing by that switch so</p> <p>15 they can activate it if necessary?</p> <p>16 MR. HAROWSKI: Objection to the</p> <p>17 form.</p> <p>18 Go ahead and answer, Captain.</p> <p>19 A. In normal course of things, answer is</p> <p>20 no, sir. They should be standing out best where</p> <p>21 they can see and control the ship. Control the ship</p> <p>22 doesn't mean stopping the ship; control the ship</p> <p>23 means keeping it clear of dangers. Because as</p> <p>24 you're leaving berth, you can see on the side of the</p> <p>25 jetty how it is. When you're passing near a buoy or</p>

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<p style="text-align: right;">Page 42</p> <p>1 turning around it, you will see that.</p> <p>2 Q. (BY MR. KAJANDER) If there is a</p> <p>3 perceived danger, then the master -- is the master</p> <p>4 authorized to instruct the person on the bridge to</p> <p>5 activate the emergency stop switch?</p> <p>6 A. Master is overriding authority for</p> <p>7 safety of the ship, yes. Master doesn't have to do</p> <p>8 it physically, he orders people to do it on his</p> <p>9 behalf. It is as good as him doing it, yes, sir.</p> <p>10 Q. So the master on the Aframax River on</p> <p>11 September 6, 2016, had the authority to authorize</p> <p>12 the third officer, who was in the control room or in</p> <p>13 the bridge, to -- to activate the emergency stop</p> <p>14 control if he chose -- if he felt it was necessary?</p> <p>15 A. Master has the authority, yes, sir.</p> <p>16 Q. Have you read -- have you read the</p> <p>17 statement of the third officer that was given to the</p> <p>18 National Transportation Safety Board? I think you</p> <p>19 answered that, but I don't recall the answer.</p> <p>20 A. I don't recall exactly what was written</p> <p>21 in it, sir.</p> <p>22 Q. Were you aware -- strike that.</p> <p>23 Captain -- or sorry.</p> <p>24 Is the captain and the second</p> <p>25 officer -- or third officer responsible to monitor</p>	<p style="text-align: right;">Page 44</p> <p>1 the rpms on the vessel is increasing, at what point</p> <p>2 should -- at what point should the master order</p> <p>3 either a stop or the emergency stop? How far -- how</p> <p>4 many rpms should the engine get to before he orders</p> <p>5 the change, according to your training?</p> <p>6 A. You mean third officer and not second</p> <p>7 officer, I guess, sir. Third officer was on the</p> <p>8 bridge.</p> <p>9 Q. Yes, sir.</p> <p>10 A. Regarding to rpm, as soon as it reaches</p> <p>11 the monitor -- once the movement is given, the</p> <p>12 monitor -- the rpm engine is responding. They see</p> <p>13 as it comes to the designated rpm. That means</p> <p>14 engine is performing or doing what they expect of it</p> <p>15 to do.</p> <p>16 After having noticed it, are they</p> <p>17 continuously going to be looking at the rpm? No,</p> <p>18 sir. Why? The master is busy casting off, making</p> <p>19 the ship move away from the berth, so there are many</p> <p>20 other hazards that he has to monitor. So he will be</p> <p>21 monitoring those.</p> <p>22 The third officer will assist the</p> <p>23 master in looking and confirming or making sure the</p> <p>24 engine has responded, for which case the third</p> <p>25 officer did monitor, he saw it, he confirmed to them</p>
<p style="text-align: right;">Page 43</p> <p>1 the rpm of the engine when the vessel Aframax River</p> <p>2 is departing from a berth?</p> <p>3 A. Yes, sir, they are responsible.</p> <p>4 Q. Okay. And if there is, on that vessel,</p> <p>5 a place both on the starboard wing bridge and on the</p> <p>6 bridge, there are gauges where you can visibly see</p> <p>7 the rpms; is that correct?</p> <p>8 A. That is correct, sir, they can see in</p> <p>9 the bridge wing inside the bridge and also on the</p> <p>10 wings.</p> <p>11 Q. If -- the proposed rpm for departure was</p> <p>12 approximately 30 rpm at slow astern; is that</p> <p>13 correct, sir?</p> <p>14 MR. HAROWSKI: I'm going to --</p> <p>15 A. It's --</p> <p>16 MR. HAROWSKI: -- to being outside</p> <p>17 the scope of this designated topic.</p> <p>18 MR. KAJANDER: I understand. He can</p> <p>19 answer the question the best he can --</p> <p>20 MR. HAROWSKI: Go ahead and answer.</p> <p>21 MR. KAJANDER: -- subject to</p> <p>22 objection.</p> <p>23 A. Dead slow astern is about 30 rpm, sir.</p> <p>24 Q. (BY MR. KAJANDER) Based upon the</p> <p>25 training of the second officer and the master, if</p>	<p style="text-align: right;">Page 45</p> <p>1 the ship has reached the dead slow astern. And</p> <p>2 thereafter, he also is doing other roles, which is</p> <p>3 monitoring the helmsman, monitoring the ship's</p> <p>4 position which he has to plot, make entries into the</p> <p>5 logbook, which he was doing.</p> <p>6 So they're not looking continuously</p> <p>7 at the rpm counter, if that is what he means.</p> <p>8 Q. What I would like to know is, based upon</p> <p>9 your training of the third officer, if the rpm is</p> <p>10 supposed to be 30 to go dead slow astern and the rpm</p> <p>11 rises to 40, does your training provide that the</p> <p>12 third officer should contact the master about the</p> <p>13 increase in rpm?</p> <p>14 (Mr. Brook Minx joins the</p> <p>15 deposition.)</p> <p>16 A. Yes, sir.</p> <p>17 Q. (BY MR. KAJANDER) How --</p> <p>18 A. If it is much more than what is assigned</p> <p>19 for it. As a dead slow ahead, will it be exactly at</p> <p>20 30 and sticking? No, sir, it would be 31. You will</p> <p>21 take slight small range. The range is specified</p> <p>22 with that. So it will be within the range, yes. If</p> <p>23 it increases beyond it and goes to the next range,</p> <p>24 that is from slow ahead to slow ahead range, yes, he</p> <p>25 would be informing to the master and pilot it is out</p>

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<p style="text-align: right;">Page 46</p> <p>1 of -- it is more than what is planned.</p> <p>2 Q. If, when the rpm under the</p> <p>3 proposed -- from what the testimony is from the</p> <p>4 chief engineer, the third engineer, the third</p> <p>5 officer and the master, the proposed rpm for the</p> <p>6 vessel Aframax River, when she departed from the</p> <p>7 Houston Fuel Oil dock, was in the range of 30 rpm,</p> <p>8 my question to you, sir, is: Should the third</p> <p>9 officer have advised the master when the rpm reached</p> <p>10 40 rpm, which would be an increase by a third of the</p> <p>11 proposed propulsion? Is that part of your training</p> <p>12 as to when the third officer should advise the</p> <p>13 master of the increase?</p> <p>14 A. Yes, if it is not as planned, he will</p> <p>15 advise the master that the rpm is different from</p> <p>16 what has been planned.</p> <p>17 Q. My question, sir, is not just if it's</p> <p>18 different, my question is whether or not your</p> <p>19 training says that once the rpm is one-third</p> <p>20 increased above what was planned, should the third</p> <p>21 engineer ask -- advise the master?</p> <p>22 MR. HAROWSKI: Objection. I think</p> <p>23 he answered that, but please go ahead and</p> <p>24 answer it again.</p> <p>25 A. If it is different, he will advise the</p>	<p style="text-align: right;">Page 48</p> <p>1 your training or officers, would that notice, that</p> <p>2 gap, 50 rpm, be deemed as an -- a notice that was</p> <p>3 too late, it was slow?</p> <p>4 MR. HAROWSKI: Object to the form of</p> <p>5 the question and the characterization of</p> <p>6 prior testimony in evidence.</p> <p>7 Please go ahead and answer to the</p> <p>8 best of your ability, Captain.</p> <p>9 A. The third officer noticing at 80 rpm, if</p> <p>10 he noticed it after the second engineer gave him a</p> <p>11 call, yes, that is when he noticed.</p> <p>12 Q. (BY MR. KAJANDER) Is that too slow or</p> <p>13 safe to control the vessel under a slow -- under a</p> <p>14 safe speed, sir?</p> <p>15 A. In this case, the ship still was within</p> <p>16 the safe speed range and very much controllable.</p> <p>17 The fact is, it is only up to 3 1/2 knots.</p> <p>18 Q. It is your opinion, sir, that the ship</p> <p>19 was controllable at a speed of 3 1/2 knots?</p> <p>20 A. Yes, in my opinion, within 3 1/2 knots,</p> <p>21 it would be controlled.</p> <p>22 MR. KAJANDER: Can we go off the</p> <p>23 record for just one second?</p> <p>24 MR. HAROWSKI: Yes.</p> <p>25 MR. HERSCHAFT: Sure.</p>
<p style="text-align: right;">Page 47</p> <p>1 master. How different is different, as you say?</p> <p>2 There's a specified example.</p> <p>3 If you're going from stop to half</p> <p>4 astern, you'll be going to the range of dead slow</p> <p>5 astern, slow astern and coming to half astern.</p> <p>6 So he will monitor it. He will see</p> <p>7 is it in the half astern range or it stopped at dead</p> <p>8 slow astern range, he will report.</p> <p>9 In this case, he gave dead slow</p> <p>10 astern range, he saw it came to dead slow astern</p> <p>11 range, he confirm to them that it's in dead slow</p> <p>12 astern range, and he went back to doing what other</p> <p>13 jobs that he was doing.</p> <p>14 As soon as he came to notice it is</p> <p>15 not in the dead slow astern range, it is in the</p> <p>16 higher range, then the engine room, he confirmed it</p> <p>17 and then informed the master. By then, the master</p> <p>18 and pilot felt the ship was -- speed was increasing,</p> <p>19 they ordered stop, and then he gave stop.</p> <p>20 Q. (BY MR. KAJANDER) I think the record</p> <p>21 will show that the third officer did not notice the</p> <p>22 rpm increase until he received a telephone from the</p> <p>23 engine room saying that the rpm had accelerated to</p> <p>24 80 rpm. Right? Assume with me that's correct.</p> <p>25 Does your training -- would -- under</p>	<p style="text-align: right;">Page 49</p> <p>1 (Discussion off the record.)</p> <p>2 Q. (BY MR. KAJANDER) Vijay -- if you don't</p> <p>3 mind me calling you Vijay -- are you aware as to</p> <p>4 whether there are -- there has been any claim made</p> <p>5 by the vessel owner against ERM [sic] concerning the</p> <p>6 management of the vessel or the training of the crew</p> <p>7 after this incident?</p> <p>8 A. One, I don't mind you calling me Vijay,</p> <p>9 sir.</p> <p>10 And you mean ESM, my company?</p> <p>11 Q. Yes.</p> <p>12 A. Owner claiming against ESM --</p> <p>13 Q. Yes, sir.</p> <p>14 A. -- I'm not aware.</p> <p>15 MR. KAJANDER: Thank you.</p> <p>16 MR. HAROWSKI: Pam, do you have any</p> <p>17 follow-up?</p> <p>18 MS. DUPUIS: Just briefly.</p> <p>19 E X A M I N A T I O N</p> <p>20 BY MS. DUPUIS:</p> <p>21 Q. I was going to ask you, what's your date</p> <p>22 of birth?</p> <p>23 A. 3rd May 1972.</p> <p>24 Q. And I'm going to talk to you a little</p> <p>25 bit about your education.</p>

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<p style="text-align: right;">Page 50</p> <p>1 Do you have any university degrees?</p> <p>2 A. If you mean master mariner, yes, for</p> <p>3 shipping. We take many exams over the year. My</p> <p>4 first exam as second mate, then many years of sea</p> <p>5 service, then my exam as chief mate, then two more</p> <p>6 years of sea service, then my exam as master. All</p> <p>7 this is in-line with international regulation, the</p> <p>8 STCW requirement. So I am a certified master</p> <p>9 mariner, and I've sailed as master on ships.</p> <p>10 Q. Of how many?</p> <p>11 A. Six.</p> <p>12 Q. And when was your first voyage as master</p> <p>13 of a vessel?</p> <p>14 A. In 2002.</p> <p>15 Q. So since 2002, you've been a master on</p> <p>16 six ships?</p> <p>17 A. Yes, sir -- yes, ma'am. Five or six.</p> <p>18 Exact, I need to count.</p> <p>19 Q. And what is your current job title?</p> <p>20 A. Presently, I am the general manager for</p> <p>21 HSEQA.</p> <p>22 Q. And how long have you held that title?</p> <p>23 A. For two years now.</p> <p>24 Q. And before ESM, where did you work?</p> <p>25 A. If you mean ashore, I worked with only</p>	<p style="text-align: right;">Page 52</p> <p>1 that you gave earlier about having a course that ESM</p> <p>2 provides with respect to your manuals that you did</p> <p>3 with the management manual would also apply with</p> <p>4 respect to the Vessel Operations Manual?</p> <p>5 A. Yes, sir. We familiarize our ship staff</p> <p>6 officers specifically with our manuals as well.</p> <p>7 Q. Okay. And that would be also a part of</p> <p>8 the schooling that you provided them or the course</p> <p>9 that you send them to?</p> <p>10 A. Yes, sir. Along with the courses, we</p> <p>11 talk what is our company requirement on that aspect.</p> <p>12 Q. And what is the purpose, if you could</p> <p>13 generally describe, for the company's Vessel</p> <p>14 Operations Manual?</p> <p>15 A. Vessel Operation Manual covers various</p> <p>16 aspects of it, starting with the crew personnel, as</p> <p>17 in their jobs and various aspects of their jobs, how</p> <p>18 they handle it at port, at sea.</p> <p>19 Then it also talks about machinery,</p> <p>20 as in how you handle equipment, how you handle</p> <p>21 bunkers, so on.</p> <p>22 (Exhibit 11 marked/introduced.)</p> <p>23 Q. (BY MR. HERSCHAFT) And if I could</p> <p>24 direct you to Exhibit No. 11, we've included just</p> <p>25 the table of contents. The manual is quite large.</p>
<p style="text-align: right;">Page 51</p> <p>1 ESM.</p> <p>2 Q. Okay.</p> <p>3 A. Before that, I was sailing with ESM.</p> <p>4 And before that, I sailed one other company.</p> <p>5 Q. Have you ever been an expert witness in</p> <p>6 another case?</p> <p>7 A. No, ma'am. This is my first. I don't</p> <p>8 know if this is expert witness, I just...</p> <p>9 Q. Sure.</p> <p>10 MS. DUPUIS: I'll pass the witness.</p> <p>11 Thank you.</p> <p>12 EXAMINATION</p> <p>13 BY MR. HERSCHAFT:</p> <p>14 Q. We're going to move on, Captain, and I'm</p> <p>15 going to ask you some questions about the Vessel</p> <p>16 Operations Manual and just one specific section in</p> <p>17 there. After that, I would just generally propose</p> <p>18 that maybe we take a break for a bit, and this will</p> <p>19 just close out the questions, I think, that all of</p> <p>20 us would have with your manuals.</p> <p>21 Going to Topic 4, that is the</p> <p>22 training that ESM provided with respect to the</p> <p>23 Vessel Operations Manual, with Topic Number 5 being</p> <p>24 the manual itself.</p> <p>25 Am I correct that all the testimony</p>	<p style="text-align: right;">Page 53</p> <p>1 Does that look like a copy of the</p> <p>2 table of contents that discusses the topics you were</p> <p>3 just describing?</p> <p>4 A. Yes, sir. That's an operations manual,</p> <p>5 yes, sir.</p> <p>6 (Exhibit 12 marked/introduced.)</p> <p>7 Q. (BY MR. HERSCHAFT) And then for Exhibit</p> <p>8 12, we have provided just one section in there which</p> <p>9 talks about the shipboard organization on board the</p> <p>10 vessel.</p> <p>11 Do you see that, sir?</p> <p>12 A. Yes, sir.</p> <p>13 Q. And just by way of reference to the</p> <p>14 graphs on 2387, that graph depicts how the</p> <p>15 organizational and command authority is on board the</p> <p>16 vessel; is that correct?</p> <p>17 A. You are correct, sir. Master on top and</p> <p>18 the rest of the team below it, yes, sir.</p> <p>19 Q. And then also later on, this really</p> <p>20 focuses on the master's authority and</p> <p>21 responsibility, that "The Master" -- at Section</p> <p>22 2.3.1 -- is "the direct representative of the</p> <p>23 Company" and "remains responsible for the</p> <p>24 seaworthiness and safety of the ship..."</p> <p>25 Do you see that, sir?</p>

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<p>1 A. I do, sir.</p> <p>2 Q. And that ship is the ongoing reflection</p> <p>3 that you have in your manuals about the master's</p> <p>4 role and responsibility; correct?</p> <p>5 A. That is correct, sir.</p> <p>6 MR. HERSCHAFT: Give me one second.</p> <p>7 Q. (BY MR. HERSCHAFT) And I would just</p> <p>8 note for the record that we had already talked about</p> <p>9 the firefighting systems, which I believe are part</p> <p>10 of the Vessel Operations Manual; correct? That was</p> <p>11 Exhibit 13?</p> <p>12 (Exhibit 13 marked/introduced.)</p> <p>13 A. You mean Section 11, "MAINTENANCE,</p> <p>14 SURVEYS AND INSPECTION"? [As read] You're talking</p> <p>15 about that?</p> <p>16 Q. (BY MR. HERSCHAFT) Yes.</p> <p>17 Is that in the Vessel Operations</p> <p>18 Manual or the general management manual?</p> <p>19 A. It is in the Vessel Operation Manual.</p> <p>20 Q. Okay. I just wanted to confirm that</p> <p>21 that's where it was located. Okay.</p> <p>22 And we have already talked to</p> <p>23 Mr. Srin about that topic.</p> <p>24 MR. HERSCHAFT: I really don't have</p> <p>25 any other questions on this, I just wanted</p>	<p>1 you're in Singapore, but I think it would</p> <p>2 be helpful for all of us just to maybe</p> <p>3 stretch our legs for ten minutes before we</p> <p>4 go into the next section.</p> <p>5 MR. HAROWSKI: Sure.</p> <p>6 MS. DUPUIS: Agreed.</p> <p>7 (Break.)</p> <p>8 Q. (BY MR. HERSCHAFT) Capt. Vijay, we're</p> <p>9 back on the record. We're going to move on to my</p> <p>10 Topic Number 7, which is the company's investigation</p> <p>11 into the cause of this incident, and I have some</p> <p>12 documents that I want to review with you.</p> <p>13 In the first instance, you note that</p> <p>14 you had answered interrogatory responses about what</p> <p>15 you contend was the cause of the incident. We've</p> <p>16 included that as Exhibit 2, specifically</p> <p>17 Interrogatory No. 5, where you had made reference to</p> <p>18 certain actions that the tugs, my clients, did or</p> <p>19 did not do.</p> <p>20 With that contingent in mind, and</p> <p>21 you had mentioned it a few minutes ago in your</p> <p>22 testimony as well, I want to ask, when you first</p> <p>23 learned of this incident -- "you" being the</p> <p>24 company -- what steps did you take to investigate</p> <p>25 the cause of the incident? And I don't mean to be</p>
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<p>1 to confirm those for the record.</p> <p>2 With respect to the Vessel</p> <p>3 Operations Manual, I pass it on to Pam.</p> <p>4 MS. DUPUIS: No questions on that</p> <p>5 topic.</p> <p>6 MR. HERSCHAFT: Tom?</p> <p>7 MR. KAJANDER: I have nothing</p> <p>8 further.</p> <p>9 MR. HERSCHAFT: Let's do this: It's</p> <p>10 9:30 my time here in Houston. Do you want</p> <p>11 to take maybe a 15-minute break? Would</p> <p>12 that be okay for everyone?</p> <p>13 MR. HAROWSKI: I think so. Well, I</p> <p>14 will say, for the Singapore witnesses,</p> <p>15 it's -- you know, it's getting -- it's</p> <p>16 10:30 at night. To the extent we can -- I</p> <p>17 think we just have the investigation topic</p> <p>18 area remaining. To the extent we could</p> <p>19 just take a short break and go on to that</p> <p>20 or just go on and get that done so we can</p> <p>21 let them move on.</p> <p>22 MR. HERSCHAFT: That's fine. I</p> <p>23 personally would appreciate a ten-minute</p> <p>24 break.</p> <p>25 And, gentlemen, I do appreciate</p>	<p>1 vague. Just walk us through, if you will, what the</p> <p>2 company did in order to investigate what happened</p> <p>3 that night.</p> <p>4 A. Until we came to know and -- we</p> <p>5 dispatched superintendents from here, Mr. Srinivasan</p> <p>6 and one more superintendent.</p> <p>7 By the time they went, the ship had</p> <p>8 already been secured at another berth. Fire had</p> <p>9 been extinguished, and the ship had been secured</p> <p>10 there, and the lawyers were already on board,</p> <p>11 authorities -- that is, U.S. federal authorities</p> <p>12 were also there on board, and then a few other</p> <p>13 people.</p> <p>14 So first, when they went on board,</p> <p>15 they went on board making sure people are safe.</p> <p>16 Secondly, then the ship and -- the</p> <p>17 ship and the environment is safe, as in the ship is</p> <p>18 safe enough and that no further oil or any such</p> <p>19 things will leak. So they went about checking what</p> <p>20 was still secured and what got damaged and if we</p> <p>21 need to take any action.</p> <p>22 First was immediately to make sure</p> <p>23 the situation doesn't go worse. So all that as they</p> <p>24 were carrying out.</p> <p>25 Simultaneously, they got experts to</p>

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58 to 61

<p style="text-align: right;">Page 58</p> <p>1 come in to investigate, investigate on various 2 aspect with the people, with the equipment. And 3 also the processes that were implemented, activities 4 that had taken place, did they take place correctly 5 or not, starting with how many people were there, 6 what movements were given, how did the ship respond, 7 what happened after the incident. 8 Q. Thank you. 9 And I did not attach this as an 10 exhibit, but I would note that at Aframax River 29 11 and 30, the United States Coast Guard issued 12 something called a captain of the port order. 13 Are you familiar with that document, 14 sir? 15 A. Captain of the port order document, yes, 16 I am familiar, sir. But this particular one that 17 you're holding, I don't know which one. 18 Q. Sure. 19 I'll generally represent to you that 20 this is the captain-of-the-port order that was 21 issued on September the 6th, 2016, the day of the 22 incident. 23 And just to generally summarize, 24 it's our understanding that this is the official 25 order from the United States Coast Guard to have the</p>	<p style="text-align: right;">Page 60</p> <p>1 A. Yes. 2 Q. Did you personally fly in for any part 3 of the investigation in the United States? 4 A. No, sir. 5 Q. Did the company ever prepare any type of 6 internal report with respect to what they believed 7 was the -- that summarized the incident or described 8 what they believed was the cause of the incident? 9 MR. HAROWSKI: I'm going to object 10 to the extent that this calls for 11 privileged documents. 12 MR. HERSCHAFT: And noted. 13 Q. (BY MR. HERSCHAFT) And just to explain 14 my question further, I'm not asking as to whether 15 your attorneys had provided you with some type of 16 report, but I'm just talking about some type of 17 post-incident report that ESM or Aframax had done. 18 Does that make sense? 19 MR. HAROWSKI: Please go ahead and 20 answer, Captain. 21 A. Investigation report, yes, we prepared 22 it with the assistance of our lawyers. And, in 23 fact, before we were on board, the lawyers were 24 there on board actually speaking as the 25 correspondent and so on. They had already started</p>
<p style="text-align: right;">Page 59</p> <p>1 vessel remain on station and that the Coast Guard 2 would be going through its own investigation; 3 correct? 4 A. That is correct, sir. Immediately after 5 the event, I recall they issued some such order. 6 Exact wordings, I don't recall. 7 MR. KAJANDER: Jeremy, what exhibit 8 is this, please? 9 MR. HERSCHAFT: It's not an exhibit, 10 we have referred to their discovery in 11 general, but I would just make note of the 12 Bates number. It's AMR 29. It's the 13 captain-of-the-port order issued by the 14 United States Coast Guard. I'm just 15 asking generally the company. 16 Q. (BY MR. HERSCHAFT) You were aware that 17 the Coast Guard obviously was involved in 18 investigating this matter; correct? 19 A. That is correct, sir. The authorities 20 were. 21 Q. And you had mentioned various 22 individuals had come in. 23 Was Mr. Srinivasan, who testified 24 earlier, was that the individual the same Srinivasan 25 who you said had flown in as well?</p>	<p style="text-align: right;">Page 61</p> <p>1 taking statement and so on with the authorities. So 2 we used their help to prepare the report, and it 3 was -- we anticipated litigation, so it was with 4 their help that we prepared it. 5 (Exhibit 14 marked/introduced.) 6 Q. (BY MR. HERSCHAFT) Okay. Could you 7 please turn to what I have marked as Exhibit 14 in 8 the binder. 9 Do you have that document in front 10 of you, sir? We were provided a document during 11 discovery, and it may be that the Bates number was 12 not included. It's AMR 1315 to AMR 1316. I'll 13 represent to you it's an email that starts with "New 14 Text Document.txt. To: Aframax River. From: 15 Syed," S-Y-E-D. And the date is 6 September 2016, 16 which is the day of the incident. 17 Do you see that, sir? 18 A. Yes, sir. I see that from Mr. Syed to 19 the ship. 20 Q. Thank you. 21 Can you please just identify for the 22 record who Mr. Syed is, what his role is with the 23 company and his job title? 24 A. He was then employed with the company. 25 He's not presently. His job role or title then was</p>

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62 to 65

<p style="text-align: right;">Page 62</p> <p>1 technical support manager.</p> <p>2 Q. And can you just describe for us what</p> <p>3 the technical support manager's role is, what his</p> <p>4 job responsibilities were?</p> <p>5 A. He basically assists the technical team,</p> <p>6 as in the fleet manager and the technical</p> <p>7 superintendent, and they help in handling,</p> <p>8 troubleshooting. If they want expert advice, he</p> <p>9 would come in to assist them.</p> <p>10 Q. Was he specifically assigned to the</p> <p>11 Aframax, or did he float amongst all of the vessels?</p> <p>12 A. He was for the full company.</p> <p>13 Q. And you had mentioned that he's no</p> <p>14 longer employed.</p> <p>15 Was he dismissed from ESM as a</p> <p>16 result of this incident?</p> <p>17 A. No, sir. He retired. He's quite an</p> <p>18 elderly gentleman.</p> <p>19 Q. Okay. Understood.</p> <p>20 Let's go back to Document 14.</p> <p>21 It looks -- from the top, it says:</p> <p>22 "Malfunction of Main Engine operation when speeding</p> <p>23 on Astern and then not stopping when on Bridge</p> <p>24 control could be due to the following</p> <p>25 possibilities." [As read]</p>	<p style="text-align: right;">Page 64</p> <p>1 stopped, the rpm ended. At this time, when he send</p> <p>2 a message, it was on the day of the event, 6</p> <p>3 September. So he had some initial information. He</p> <p>4 was troubleshooting to identify what happened.</p> <p>5 He also did not -- that was a</p> <p>6 statement.</p> <p>7 Q. And I know that what you're saying is,</p> <p>8 he may not have been informed about what the actual</p> <p>9 ending- order telegraph said or what the VDR said;</p> <p>10 correct?</p> <p>11 A. Exactly.</p> <p>12 Q. And I know that there's been testimony</p> <p>13 already as to your specific knowledge as to what the</p> <p>14 VDR actually shows and what the engine-order</p> <p>15 telegraph shows; correct? You had --</p> <p>16 A. Testimony?</p> <p>17 Q. You had been testifying earlier in</p> <p>18 response to questions from Mr. Kajander with respect</p> <p>19 to those issues, and I think we'll just leave the</p> <p>20 testimony as it is.</p> <p>21 But just going back to this document</p> <p>22 for the moment, was this document sent in response</p> <p>23 to something the vessel had sent to Mr. Syed?</p> <p>24 A. I don't see that here, sir, that part.</p> <p>25 Whether he sent in response to something sent to him</p>
<p style="text-align: right;">Page 63</p> <p>1 Do you see that, sir?</p> <p>2 A. The very first sentence, yes, I do see</p> <p>3 it.</p> <p>4 Q. Yes.</p> <p>5 Would you agree that there was a</p> <p>6 malfunction of the main engine when speeding on</p> <p>7 astern and that it did not stop when on bridge</p> <p>8 control?</p> <p>9 A. It malfunctioned, yes, sir. I agree</p> <p>10 with that part of it. Not stopping, I don't,</p> <p>11 because it did stop. At that time when he sent it,</p> <p>12 he probably didn't know the facts because the VDR</p> <p>13 was not analyzed, readings were not taken yet.</p> <p>14 MR. HERSCHAFT: Well, I'm going to</p> <p>15 object to that response in the sense that</p> <p>16 you're making assumptions about what he</p> <p>17 knows or doesn't know. But fair enough.</p> <p>18 Q. (BY MR. HERSCHAFT) So you agree with</p> <p>19 the first part, that there was a malfunction;</p> <p>20 correct?</p> <p>21 A. Momentarily, yes, that part I agree.</p> <p>22 Q. And then the not stopping on bridge</p> <p>23 control, what is your basis for disagreeing with</p> <p>24 that, again?</p> <p>25 A. The telegraph recorder showed that it</p>	<p style="text-align: right;">Page 65</p> <p>1 or told to him on phone, I wouldn't know, because I</p> <p>2 don't have the evidence in front of me, and I</p> <p>3 don't...</p> <p>4 Q. I'll represent to you that one of the</p> <p>5 requests for production of discovery that we have</p> <p>6 asked for and I also believe that I can see it asked</p> <p>7 for, was all internal communications regarding the</p> <p>8 incident -- the incident, and we just received a</p> <p>9 single document.</p> <p>10 I'll represent to you that it looks</p> <p>11 as if this is in response to some type of a message,</p> <p>12 and I would like to determine if there are any other</p> <p>13 documents in this communication chain.</p> <p>14 Does that make sense to you, sir?</p> <p>15 A. So I didn't get your question. Could</p> <p>16 you repeat what you're asking me?</p> <p>17 Q. Sure.</p> <p>18 This is the single document that</p> <p>19 we've received regarding the internal correspondence</p> <p>20 of an incident that involved an allision into a</p> <p>21 piling, a massive eruption and alleged damages from</p> <p>22 your company to my company, and this is the only</p> <p>23 document we've seen.</p> <p>24 I'm asking you, are you aware of any</p> <p>25 other documents, for purposes of today's deposition,</p>

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<p style="text-align: right;">Page 66</p> <p>1 that are communications that would have responded to</p> <p>2 this or preceded this?</p> <p>3 A. I am not aware of this.</p> <p>4 Q. Okay. In going through this document,</p> <p>5 it says -- there's a description, and then it says:</p> <p>6 "Possibility: Air cylinder for governor/Fuel</p> <p>7 linkage connection (Elastic Cylinder) 3.10 does not</p> <p>8 receive sufficient air pressure because air leaks</p> <p>9 out, then the engine can over speed or not stop (can</p> <p>10 behave erratically)."</p> <p>11 Do you see that, sir?</p> <p>12 A. In the description, the first sentence,</p> <p>13 you mean, sir?</p> <p>14 Q. A little bit down, it says:</p> <p>15 "Description," and then it says "Possibility." It's</p> <p>16 about a third of the way down the page. I'm on</p> <p>17 Exhibit 14.</p> <p>18 A. Yes.</p> <p>19 Q. It lists a bunch of --</p> <p>20 A. Okay. "Possibility." Yes, sir, I see</p> <p>21 that. "Possibility." Below that, it says "Air</p> <p>22 cylinder for governor/Fuel linkage connection</p> <p>23 (Elastic Cylinder)," yeah, "3.10 does not receive</p> <p>24 sufficient air..." That's the sentence you were --</p> <p>25 Q. Thank you.</p>	<p style="text-align: right;">Page 68</p> <p>1 other technicians were the subject matter experts on</p> <p>2 this.</p> <p>3 Q. And that would have been the technicians</p> <p>4 for the engine and the governor actuator; is that</p> <p>5 correct?</p> <p>6 A. You are correct, sir.</p> <p>7 Q. And later on in the document, it says:</p> <p>8 "Further Nabtesco have the following questions."</p> <p>9 [As read]</p> <p>10 Is that the same Nabtesco that was</p> <p>11 referred to earlier with respect to the technicians</p> <p>12 that would manage the governor actuator system?</p> <p>13 A. Yes, sir. To my understanding, that is</p> <p>14 the same Nabtesco.</p> <p>15 Q. Can you describe generally for the</p> <p>16 Court, what is the governor actuator system in</p> <p>17 relation to the main engine? Can you just generally</p> <p>18 describe how those two systems relate to each other?</p> <p>19 A. I -- here, you'll have to excuse me.</p> <p>20 I'll have to call Srini, because he's the engineer.</p> <p>21 He knows the engineering part of it.</p> <p>22 Q. Okay.</p> <p>23 A. Do you want me to stop and call him, or</p> <p>24 how does it go? He's sitting next to me.</p> <p>25 Q. No, I can hold off on that question. I</p>
<p style="text-align: right;">Page 67</p> <p>1 Did the company ever do any further</p> <p>2 investigation to determine that possibility or to</p> <p>3 confirm or investigate that possibility and -- set</p> <p>4 forth by Mr. Syed?</p> <p>5 A. Yes, sir. That is the reason the main</p> <p>6 engine technician was called, to investigate all of</p> <p>7 these factors: the main engine, the governor,</p> <p>8 technician, all of them, they're going to check on</p> <p>9 all aspects.</p> <p>10 Q. And when you're talking about the</p> <p>11 aspects, it says later on: "Please find some basic</p> <p>12 guidance," and it lists Items 1, 2, 3, 4, 5 -- and</p> <p>13 I'll stop there for a second.</p> <p>14 Do you see those five items?</p> <p>15 A. I do, sir.</p> <p>16 Q. Are those possibilities that Mr. Syed is</p> <p>17 providing as to what may have caused the engine to</p> <p>18 malfunction?</p> <p>19 A. Yes, sir. From his knowledge, he thinks</p> <p>20 maybe these could be.</p> <p>21 Q. Okay. And did the company do anything</p> <p>22 to investigate these five potential sources for the</p> <p>23 cause?</p> <p>24 A. Yes, sir, to troubleshoot and identify</p> <p>25 what was the problem, they did try. That is why the</p>	<p style="text-align: right;">Page 69</p> <p>1 can hold off on that question. I'd rather not</p> <p>2 confuse the record.</p> <p>3 If you go down further, it looks as</p> <p>4 if Mr. Syed was looking for a response to these</p> <p>5 questions. And he says: "Further Nabtesco have the</p> <p>6 following questions. Please do revert soonest</p> <p>7 possible. Could you check and clarify us below</p> <p>8 details." [As read]</p> <p>9 And this goes back to my earlier</p> <p>10 question: Do you have any records from the company</p> <p>11 where there was a response to this message that</p> <p>12 addressed any of these points, if you know?</p> <p>13 A. I don't know, sir.</p> <p>14 Q. Where would we go to look in the</p> <p>15 company's files, whether it's electronic or</p> <p>16 physical, to determine if there was a response to</p> <p>17 this message, or multiple responses? Where would we</p> <p>18 go to look for that?</p> <p>19 A. I think if there's a file for this case</p> <p>20 that has that particular communication, I would look</p> <p>21 there.</p> <p>22 Q. We can send a further discovery request</p> <p>23 to your counsel. I'd just note for the record that</p> <p>24 to the extent that you have any further</p> <p>25 communications to this, we'd ask that you preserve</p>

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<p style="text-align: right;">Page 70</p> <p>1 them because of the relevancy to the event.  2 (Exhibit 15 marked/introduced.)  3 Q. (BY MR. HERSCHAFT) If you'd move on to  4 Exhibit No. 15.  5 This is the Nabtesco service report  6 for the governor actuator system; correct?  7 A. Yes, sir. Looks --  8 Q. I know that this has been referred to  9 earlier in questioning.  10 Nabtesco is the manufacturer of the  11 governor actuator; correct?  12 A. Yes, sir. To my understanding.  13 Q. And it does appear from the notes that  14 they made that there was an investigation, and they  15 have described it as a abnormality momentarily.  16 Do you see that?  17 A. Second sentence, you mean, sir? "Found  18 governor actuator system encountered abnormality  19 momentarily but was later was found recovered to  20 normal operation," yes.  21 Q. You had mentioned earlier you were  22 talking about the fact that it was a momentary  23 abnormality, but I want to ask you: Does the  24 company admit that there was an abnormality with  25 this specific piece of equipment?</p>	<p style="text-align: right;">Page 72</p> <p>1 components following the allision," just  2 to note it for the record.  3 Q. (BY MR. HERSCHAFT) And do you  4 remember -- do you have any recollection as to how  5 far after the items were repaired when those pieces  6 were discarded? Would that be a question for Srini?  7 A. Yes, sir. At least I don't know.  8 MR. HERSCHAFT: Do any of the other  9 counsel have an objection if I ask Srini  10 this question right now?  11 MS. DUPUIS: Could we go off the  12 record, he get the information from him  13 and then he get back on the record and  14 testify based on what he's learned?  15 Because he's a 30(b)(6), he can be  16 educated.  17 MR. HERSCHAFT: That's fine. We can  18 go off the record.  19 (Discussion off the record.)  20 THE WITNESS: Can I speak now?  21 MR. HAROWSKI: Wait for Jeremy to  22 ask the question.  23 Q. (BY MR. HERSCHAFT) Captain, I'm going  24 to ask you the following question. I understand  25 that you've received information with respect to the</p>
<p style="text-align: right;">Page 71</p> <p>1 A. Yes, sir, there was a momentary, yes,  2 abnormality.  3 Q. Okay. And I think in response to ITC's  4 counsel, is it our understanding that after this  5 equipment was inspected, it was discarded? Is that  6 correct?  7 A. Srini would be the one to tell you  8 exactly, because he knows the details of how -- what  9 happened thereafter.  10 Q. Okay. And I think he had testified  11 earlier that, in fact, that piece of equipment, or  12 pieces, had been discarded; correct?  13 MR. HAROWSKI: Objection.  14 A. Yes.  15 MR. HAROWSKI: That's back to his  16 testimony. I think he testified that it  17 was taken back by Nabtesco.  18 MR. HERSCHAFT: Okay. I will note  19 for the record that one of your  20 interrogatory responses to this, it was  21 ITC's Interrogatory No. 9, asked for the  22 identification of the location of these  23 documents, and the response was, quote,  24 "These components were discarded after the  25 technician from Nabtesco replaced the</p>	<p style="text-align: right;">Page 73</p> <p>1 answer.  2 About -- do you know how long after  3 the Nabtesco servicemen came on board, when the  4 governor actuator system, the old governor actuator  5 system, was removed?  6 A. It was on board from 9 September to 16  7 September. Whenever he removed it, it went with  8 him. We don't know the exact date.  9 Q. Okay. Thank you.  10 Now, you've made various allegations  11 in your complaint and in discovery responses about  12 the actions of my client, the tugboats.  13 I want to focus you on this  14 question: The governor actuator is a piece of your  15 vessel's equipment; correct?  16 A. That is correct, sir.  17 Q. Are you claiming that G&amp;H Towing, the  18 tugs, had any involvement with the failure of your  19 governor actuator?  20 A. I'm not saying that that caused the  21 governor to fail momentarily.  22 Q. And that's what I'm asking. I'm just  23 trying to understand that.  24 And the same thing for your main  25 engine. The documents have shown that the company</p>

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74 to 77

<p style="text-align: right;">Page 74</p> <p>1 viewed this as a malfunction of the main engine.</p> <p>2 Are you claiming that the tugs in</p> <p>3 any way were responsible for the malfunction of the</p> <p>4 vessel's main engine?</p> <p>5 A. I'm not claiming the tugs are</p> <p>6 responsible for the vessel's main engine</p> <p>7 malfunction.</p> <p>8 Q. Understood.</p> <p>9 A. All I'm saying is, they did not direct</p> <p>10 the ship which they were responsible for, control</p> <p>11 the movement, take it into the channel, which never</p> <p>12 happened. The ship went straight towards the</p> <p>13 mooring buoy, which was not fendered or lit, and hit</p> <p>14 it.</p> <p>15 Q. Okay.</p> <p>16 A. Because two tugs were made fast, and the</p> <p>17 ship was in ballast condition, which they could have</p> <p>18 controlled. Two tugs handled the ship when she came</p> <p>19 and loaded. She was half the -- less than half that</p> <p>20 of weight. So she's lighter condition. Should have</p> <p>21 been easily controlled. And ship, by herself,</p> <p>22 cannot control herself. Because she's going astern,</p> <p>23 she cannot steer, and that positioning, that action,</p> <p>24 will be by the tugs.</p> <p>25 Q. Have you ever maneuvered a tugboat</p>	<p style="text-align: right;">Page 76</p> <p>1 documents, we saw an invoice from Nabtesco, and it</p> <p>2 appears to be two separate invoices.</p> <p>3 Take a moment to look at Exhibit 16.</p> <p>4 One looks like charges for the technician's travel</p> <p>5 from September 9th to the 18th; and another looks</p> <p>6 like an invoice for parts -- two specific parts.</p> <p>7 Do you see that, sir?</p> <p>8 A. Yes, sir, I see two invoice -- there's</p> <p>9 three pages here.</p> <p>10 Q. Okay. And if we did not see any other</p> <p>11 documents in your document responses from Nabtesco,</p> <p>12 aside from these invoices and the Nabtesco service</p> <p>13 report, is it your understanding that these are the</p> <p>14 charges that would relate to the Nabtesco</p> <p>15 technicians' attendance aboard the vessel and for</p> <p>16 the parts that were fixed and replaced?</p> <p>17 A. I don't know about this. Again, I'd</p> <p>18 have to get Srimi, because he's the expert, and he</p> <p>19 handled all --</p> <p>20 (Technical difficulties.)</p> <p>21 A. I don't know about this matter. My</p> <p>22 colleague Srimi and his team handled this matter, so</p> <p>23 I'm not aware of it.</p> <p>24 MR. HERSCHAFT: Can we just go off</p> <p>25 the record again real quick?</p>
<p style="text-align: right;">Page 75</p> <p>1 before, you yourself?</p> <p>2 A. No, sir. I maneuvered ships, not</p> <p>3 tugboats.</p> <p>4 Q. Have you read the testimony that was</p> <p>5 provided by the pilots of the Aframax regarding</p> <p>6 their observations on the night in question? Have</p> <p>7 you read the pilots' -- the pilots aboard the vessel</p> <p>8 gave their deposition testimony earlier this week.</p> <p>9 Have you had an opportunity to read</p> <p>10 that testimony?</p> <p>11 A. No, I haven't read their testimony.</p> <p>12 Q. And I'll ask the same thing: The</p> <p>13 captains and masters of the tug Gasparilla and Jess</p> <p>14 Newton, they were also deposed this week.</p> <p>15 I'll ask the question again: Have</p> <p>16 you read their testimony regarding their</p> <p>17 observations as to what occurred that night?</p> <p>18 A. I haven't read any of their testimony,</p> <p>19 nor the tugmaster's or whoever the representatives.</p> <p>20 (Exhibit 16 marked/introduced.)</p> <p>21 Q. (BY MR. HERSCHAFT) Okay. If you go to</p> <p>22 page -- I'm sorry, to Exhibit 16.</p> <p>23 I will ask you -- or your colleagues</p> <p>24 in Athens a little bit later about the damages that</p> <p>25 are being claimed; but in going through the</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. HAROWSKI: We're off the record.</p> <p>2 (Discussion off the record.)</p> <p>3 Q. (BY MR. HERSCHAFT) Aside from</p> <p>4 the -- the investigations that you had done with</p> <p>5 your attorney, are you aware of any other documents</p> <p>6 that have been prepared by -- and the documents</p> <p>7 you've already produced, have there been any other</p> <p>8 documents that you have generated with respect to</p> <p>9 the company's appreciation of the cause of the</p> <p>10 event?</p> <p>11 A. You mean any other investigation report</p> <p>12 or such report?</p> <p>13 Q. Sure.</p> <p>14 A. That was the only report we prepared,</p> <p>15 with their assistance, investigation report</p> <p>16 regarding this incident.</p> <p>17 Q. Okay. You had mentioned the NTSB</p> <p>18 investigation earlier in your testimony.</p> <p>19 Are you aware that the NTSB had</p> <p>20 determined that probable cause of this incident was</p> <p>21 as a result of the abnormality of the tanker's main</p> <p>22 engine governor actuator in responding to commands</p> <p>23 from the bridge?</p> <p>24 MR. HAROWSKI: Object to the</p> <p>25 admissibility of the NTSB finding.</p>

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78 to 81

<p style="text-align: right;">Page 78</p> <p>1 So please go ahead and answer, 2 Captain. 3 A. What did it say? 4 Q. (BY MR. HERSCHAFT) Have you read the 5 NTSB report that was prepared by the National 6 Transportation Safety Board in this incident? 7 A. Yes, sir, I did read NTSB report. 8 Q. And that report in no way faulted the 9 tugboats as a result of this incident, did it? 10 A. It said what? 11 Q. Yeah. 12 The report didn't fault the tugboats 13 as a result of this incident, did it? If you know. 14 A. I need to check exactly on that aspect. 15 In their probable cause, yes, they 16 mention only the abnormality of the main engine 17 governor actuator system. That's correct. This 18 aspect, this is what they mentioned in that, main 19 engine governor actuator system. 20 MR. HERSCHAFT: I don't have any 21 further questions for you at this point, 22 sir. 23 I'll pass the witness. 24 25</p>	<p style="text-align: right;">Page 80</p> <p>1 the normal course of business, this report 2 that we've been talking about is not 3 protected. He produced it. 4 MR. HAROWSKI: No, it is privileged 5 and was prepared with the attorneys. 6 MR. MINX: Yeah, no, it's not 7 protected, because he just told you that's 8 what he does in his normal course of 9 business. 10 I just wanted to check. We can 11 argue about it off-line, Mike, no problem. 12 MR. HAROWSKI: Brook, I 13 think -- well, we'll talk about it later. 14 MR. MINX: Yeah, that's what I said. 15 No problem, Mike. 16 Q. (BY MS. DUPUIS) So did ESM make a 17 determination that ITC in any way contributed to 18 cause the subject incident? 19 A. Yes. We felt that the light -- one was 20 not lit; two, the mooring bar, which is very close 21 to the shipping channel and a heavy traffic area, 22 should have been fendered, among other things. 23 Q. What are the other things? 24 A. Like, before that, that the tug had 25 control of the ship's movement, which is -- and that</p>
<p style="text-align: right;">Page 79</p> <p>1 EXAMINATION 2 BY MS. DUPUIS: 3 Q. Back to the investigation, is it normal 4 course of business for ESM to investigate any time 5 you have an incident such as this one that occurs at 6 one of its vessels? 7 A. Yes, ma'am. If we have an incident, we 8 investigate it. 9 Q. Okay. And that's normal, whether or not 10 you anticipate a lawsuit is going to follow; is that 11 correct? 12 A. That is correct, ma'am. When there's an 13 incident, yes. 14 Q. Do you know when -- when ESM and Aframax 15 River management anticipated that a lawsuit would 16 follow from the subject incident? 17 A. After we were told, as soon as -- as 18 soon as the ship was made fast, because we just knew 19 the damages were so much. So we guessed that it 20 would be a lot of litigation, as in there would be 21 litigation. As in, yeah, as soon as we knew the 22 consequence, we knew there likely to be litigation. 23 MR. MINX: Hey, Mike? 24 MR. HAROWSKI: Yes? 25 MR. MINX: Because this was done in</p>	<p style="text-align: right;">Page 81</p> <p>1 direction of the ship -- ship could not control in 2 astern way, nor ship can control it. She's 3 dependent on external resources to make herself 4 manageable and be in control within safe limits, as 5 in to be within the channel. 6 After coming off the channel, both 7 the tugs were made fast with the ropes so that they 8 can pull the ship off the berth and then turn the 9 ship and align it so that ship can move on her own 10 power. 11 So she had to -- she was 12 completely -- and that control was in the hands of 13 tugs. So the tugs did the right thing, she would 14 have been in the right place and this incident 15 wouldn't have happened. 16 Even though speed increased 17 momentarily, it was not significant to impact it, as 18 in it went up to 3 1/2 knots only. Still, the ship 19 could have been controlled because she was light, 20 and direction could have turned if the tugs had 21 pulled. 22 Since the tugs didn't pull, we would 23 see the course. She headed straight to the mooring 24 buoys from the berth. And the buoys, if they had 25 been fendered, then probably the damage wouldn't</p>

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82 to 85

<p style="text-align: right;">Page 82</p> <p>1 have been so much. As in metal-to-metal contact  2 wouldn't have happened, what I mean by that. The  3 whole cause of this fire, this breach of hull fuel  4 leakage happened because ship's metal and the wooden  5 buoy's metal came in contact.  6 Q. How do you know that there was no fender  7 on the mooring dolphins?  8 A. Because that's what they told us, the  9 ship's staff. It was later, after the incident. Of  10 course all this we can only know in hindsight.  11 Q. Are you aware --  12 A. At least I can do.  13 Q. Are you aware that Captain Charles  14 Arduengo, one of the tug captains, testified that  15 actually there was a fender in place on the mooring  16 dolphins? Are you aware of that?  17 A. I am not aware of that.  18 Q. Are you also aware that almost everybody  19 has testified so far that everyone was aware of the  20 location of the mooring dolphin at all times? Are  21 you aware of that?  22 A. If you mean that both the tugs were  23 facing the mooring dolphin and they knew the ship  24 was heading towards it, yes. In that sense, yes,  25 they would have known exactly there is a dolphin and</p>	<p style="text-align: right;">Page 84</p> <p>1 As an example, if you come to  2 Singapore, there's so much backscatter, you can't  3 make out what is what. You know there is something  4 there, but you don't know what it was. There will  5 be too many lights conflicting, so it confuses the  6 navigator, especially in the darkness.  7 So that is why the buoys, whenever  8 you see out at sea where to guide the ships, they  9 have a light with special characteristics so they  10 stand out. So whenever you put any hazard,  11 sometimes you say it is required because you need to  12 place a buoy there for whatever reason, commercial  13 or otherwise, or for safety of navigation, you give  14 it certain characteristics as determined by the  15 local authorities. So it attracts the attention of  16 the people, oddly enough, so that they can take  17 action or, at best, avoid it.  18 Q. But I thought you agreed with me that  19 the testimony was that people had visibility of the  20 mooring dolphins during this operation; is that  21 true?  22 A. Yes. If you mean to say the tugs, they  23 had it. And if you mean to say the ship's staff,  24 yes, they had it in the last hundred-odd meters they  25 were reporting the distance off from the mooring</p>
<p style="text-align: right;">Page 83</p> <p>1 that they're going. Because both the tugs were  2 facing aft of the ship, which is towards the  3 dolphin. And they were guiding ships towards it.  4 And if you mean on board the ship,  5 the aft station, that is the people manning the aft  6 deck, where the aft part of the ship is where the  7 ropes were there; ship had been cast off, the cargo  8 still made fast, the people were there. They could  9 see the mooring dolphin, they were reporting to the  10 bridge, so the master and the pilot were aware of  11 it. That is why they felt that a warning had to be  12 given.  13 Q. If everybody could see the mooring  14 dolphin -- and that's the testimony, everyone had  15 visibility of the mooring dolphin -- then what  16 difference would it make if it had a light on it or  17 not in terms of causing the allision?  18 MR. HAROWSKI: Objection to form.  19 Go ahead and answer, Captain.  20 A. First, with light -- first and foremost,  21 it attracts attention.  22 Second, it stands out against  23 backscatter.  24 What do I mean by "backscatter"?  25 It's a typical -- one of the risks in navigation.</p>	<p style="text-align: right;">Page 85</p> <p>1 buoy.  2 Q. And the pilot -- and one of the pilots  3 also, on port side, had visibility of it; correct?  4 A. My understanding, yes. It is so -- yes,  5 that is what I understand, he had it, and he  6 apparently informed the pilot. That's what I think.  7 That's when the pilot give orders to the tug to pull  8 away from it full ahead. Which I understand was not  9 given by the tugs. That is probably one of the  10 reason this whole adventure failed and ship went in  11 contact with the mooring dolphin.  12 MS. DUPUIS: I'll pass the witness.  13 Thank you.  14 E X A M I N A T I O N  15 BY MR. KAJANDER:  16 Q. Captain, just a couple questions  17 concerning the mooring buoy.  18 Let me start with: Are you aware  19 that the master of the vessel testified that he  20 was -- he knew the mooring buoys were -- where the  21 mooring buoys were located?  22 A. I don't know that. If master said so in  23 his statement, I'm not aware of it.  24 Q. Assume with me that he testified to that  25 fact.</p>

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<p style="text-align: right;">Page 86</p> <p>1 Assuming that to be true, can you</p> <p>2 tell me what difference having a light on the</p> <p>3 mooring buoy would have made in the manner in which</p> <p>4 the captain chose to handle the vessel when she</p> <p>5 departed the Houston Fuel Oil terminal?</p> <p>6 A. One is for the master to know the</p> <p>7 topography, the layout of the land. That is how you</p> <p>8 make an image and you make a plan. You discuss it</p> <p>9 with your bridge team, you discuss it with your</p> <p>10 pilot how the events -- how the ship will go, how</p> <p>11 she will move relative to others and how she will</p> <p>12 end up.</p> <p>13 Second is, as you are approaching,</p> <p>14 the dangers are changing. As in you pass one</p> <p>15 landmark, that's no more danger. The next one</p> <p>16 becomes a danger. That's how you map yourself and</p> <p>17 navigate.</p> <p>18 So as he goes along, there's always</p> <p>19 new dangers coming up, and he will be controlling</p> <p>20 the next one and the next one, next one. Having</p> <p>21 this light attracts attention to it. Having the</p> <p>22 light gets their attention, and as their distance is</p> <p>23 using the -- this is more risk than the earlier ones</p> <p>24 which are either clear or lesser risk so he can</p> <p>25 start focusing onto the next risk and the next risk.</p>	<p style="text-align: right;">Page 88</p> <p>1 being unlighted.</p> <p>2 MR. HAROWSKI: Objection to the</p> <p>3 form. Asked and answered.</p> <p>4 You can answer, Captain.</p> <p>5 A. As he departs the berth, he has an idea</p> <p>6 of what lies where. But as he gets -- he starts</p> <p>7 moving, the light attracts him to the danger. So</p> <p>8 that actions will vary according to it.</p> <p>9 Q. (BY MR. KAJANDER) Captain, can you tell</p> <p>10 me any regulations that your company alleges ITC</p> <p>11 violated with respect to either the placement of the</p> <p>12 mooring dolphins or their design?</p> <p>13 A. The mooring buoys being close to</p> <p>14 shipping channel where there's traffic, and not</p> <p>15 being lit and fendered, we felt that it was a risk.</p> <p>16 If there was even a small margin of error, the ship</p> <p>17 would be at the edge of the channel, it would be</p> <p>18 very close to the buoy, and there is a risk of</p> <p>19 getting in contact, as in this case it has happened.</p> <p>20 Q. Do you have a regulation, Captain, that</p> <p>21 you allege ITC violated with respect to either the</p> <p>22 construction and design of the mooring dolphins or</p> <p>23 of their placement? Not a theory. I want to know a</p> <p>24 regulation, a law.</p> <p>25 A. I'm not aware of U.S. law. How would I</p>
<p style="text-align: right;">Page 87</p> <p>1 Whichever is the biggest risk, they'll even act upon</p> <p>2 it.</p> <p>3 So having the light attracts</p> <p>4 attention. That is why all navigation lights within</p> <p>5 to navigate the channels have certain</p> <p>6 characteristics to attract this attention.</p> <p>7 Typically flashing and so on.</p> <p>8 Q. Captain, on what basis do you state your</p> <p>9 opinion that the light that was on the buoy, on the</p> <p>10 dolphin, was not flashing?</p> <p>11 MR. HAROWSKI: Objection to the</p> <p>12 form.</p> <p>13 MR. KAJANDER: He can answer.</p> <p>14 A. My understanding is, there was no light</p> <p>15 itself.</p> <p>16 Q. (BY MR. KAJANDER) Once again, you did</p> <p>17 not really answer my question as to what difference</p> <p>18 the light would have made except in theory.</p> <p>19 You -- the unequivocal testimony -- and assume with</p> <p>20 me unequivocal testimony is that the master, the</p> <p>21 pilots, tug captains all knew where the mooring</p> <p>22 dolphin was positioned, and you tell me with</p> <p>23 specificity, Captain, exactly what changes the</p> <p>24 master would have made in his departure plan if</p> <p>25 there was a light on the dolphin, as opposed to it</p>	<p style="text-align: right;">Page 89</p> <p>1 answer that?</p> <p>2 Q. So the answer is, you know no -- you</p> <p>3 know of no violation by ITC; is that correct?</p> <p>4 MR. HAROWSKI: Objection.</p> <p>5 That's not what he just said.</p> <p>6 A. I said I don't know the U.S. law, so I</p> <p>7 don't know what they violated or didn't violate.</p> <p>8 Q. (BY MR. KAJANDER) Captain, have you</p> <p>9 been advised -- have you been told when those</p> <p>10 dolphins were first installed at ITC?</p> <p>11 A. When they were installed at ITC in</p> <p>12 Houston?</p> <p>13 Q. Yes, sir.</p> <p>14 A. I don't know when they were installed,</p> <p>15 sir.</p> <p>16 Q. Have you been told how many times the</p> <p>17 pilots had moved vessels both in and out of ITC and</p> <p>18 in and out of Houston Fuel Oil without hitting the</p> <p>19 dolphins prior to September 6, 2016?</p> <p>20 MR. HAROWSKI: Objection to the form</p> <p>21 and to the -- whether this is encompassed</p> <p>22 within the topics of this deposition.</p> <p>23 MR. KAJANDER: That's fine. I just</p> <p>24 asked if he had been advised of that.</p> <p>25 MR. HAROWSKI: You can answer,</p>

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90 to 93

<p style="text-align: right;">Page 90</p> <p>1 Captain.</p> <p>2 A. I don't know.</p> <p>3 Q. (BY MR. KAJANDER) Captain, you</p> <p>4 testified that very early on, EMS [sic] was aware of</p> <p>5 the fact that litigation would likely be pending</p> <p>6 concerning this incident; is that correct?</p> <p>7 A. ESM, you mean?</p> <p>8 Yes, we anticipated. Because of the</p> <p>9 consequences, we expected.</p> <p>10 Q. Yet ESM still allowed the parts from the</p> <p>11 governor actuator to be removed from the site; is</p> <p>12 that correct?</p> <p>13 A. That is correct. By the technician, by</p> <p>14 the manufacturer.</p> <p>15 Q. And one last question. And this --</p> <p>16 this -- not directly on point with this item, but I</p> <p>17 didn't write down the answer.</p> <p>18 What do you call the device on the</p> <p>19 bridge that measures the rpms, that records the</p> <p>20 rpms?</p> <p>21 A. Tachometer. As in shows the rpm?</p> <p>22 Q. Yes, sir. Does it record the rpms?</p> <p>23 A. Okay. Let me clarify. What shows the</p> <p>24 rpm is called tachometer. What records the movement</p> <p>25 and the rpm reading is the data logger of the</p>	<p style="text-align: right;">Page 92</p> <p>1 vessel; is that correct?</p> <p>2 A. On the bridge, yes, sir.</p> <p>3 Q. So if -- so just so we're clear, if the</p> <p>4 recording on the telegraph is not accurate, there</p> <p>5 would be no way to check -- there would be no other</p> <p>6 device to check it against?</p> <p>7 A. On the bridge, if you mean?</p> <p>8 Q. Yes.</p> <p>9 A. Yes, sir. Because in the engine room,</p> <p>10 there could be devices there that could record it.</p> <p>11 Q. But your specific knowledge -- based on</p> <p>12 your specific knowledge, you do not know if there is</p> <p>13 a device in the engine room that records the rpm</p> <p>14 levels; is that correct?</p> <p>15 A. My specific knowledge, yes. My personal</p> <p>16 knowledge, yes.</p> <p>17 MR. KAJANDER: Thank you, sir.</p> <p>18 MS. DUPUIS: Jeremy, I have a</p> <p>19 follow-up. Do you want to go first?</p> <p>20 MR. HERSCHAFT: I do.</p> <p>21 Captain, I do have some follow-up</p> <p>22 questions based upon the comments that you</p> <p>23 made with respect to the tug's involvement</p> <p>24 here.</p> <p>25 And, Pam, I apologize, was that a</p>
<p style="text-align: right;">Page 91</p> <p>1 telegraph.</p> <p>2 Q. So the tachometer does not record the</p> <p>3 rpms?</p> <p>4 A. No, sir. It does not. It shows the</p> <p>5 rpm.</p> <p>6 Q. Okay. Is there any device -- I'm sorry,</p> <p>7 I apologize. I didn't mean to go over you.</p> <p>8 Is there any device located -- is</p> <p>9 there any device on the vessel that records the rpm,</p> <p>10 other than the telegraph?</p> <p>11 A. In engine room, if there is one,</p> <p>12 often -- I don't know on this ship. I'll have to</p> <p>13 get the subject matter expert on that. I'm not the</p> <p>14 one.</p> <p>15 Q. Okay, sir.</p> <p>16 A. On the bridge -- I can say on the</p> <p>17 bridge, the digital data -- telegraph data logger is</p> <p>18 the recorder.</p> <p>19 Q. And that's the -- that's the telegraph</p> <p>20 in which the master's orders to go slow astern and</p> <p>21 stop, et cetera, are recorded?</p> <p>22 A. Exactly.</p> <p>23 Q. So there is no other device that records</p> <p>24 the rpm of the engine on that vessel, no other</p> <p>25 device on the bridge that records the rpm on that</p>	<p style="text-align: right;">Page 93</p> <p>1 comment from you?</p> <p>2 MS. DUPUIS: No. I just -- I have a</p> <p>3 follow-up, so just go ahead, yeah.</p> <p>4 MR. HERSCHAFT: Understood.</p> <p>5 E X A M I N A T I O N</p> <p>6 BY MR. HERSCHAFT:</p> <p>7 Q. Captain, you testified a few moments ago</p> <p>8 that the entire control of the maneuver was in the</p> <p>9 hands of the tug, but isn't it correct that the</p> <p>10 captain's in control of your vessel? Correct?</p> <p>11 A. Master is in control of the ship; true,</p> <p>12 sir. To achieve the control, he needs resources.</p> <p>13 Out at sea engine, the rudder is sufficient when</p> <p>14 you're going ahead. Even if you go astern, there is</p> <p>15 sufficiency room. Not a problem. For people, he</p> <p>16 have sufficient people on board. But when you put</p> <p>17 them in a congested water, very restricted, narrow</p> <p>18 water as alongside a berth, he needs additional</p> <p>19 resources to be in control, of which pilot is one</p> <p>20 for local knowledge.</p> <p>21 Tugboats off the berth, surely;</p> <p>22 otherwise, he, on his own, is never in control,</p> <p>23 especially if he has to come astern. When he comes</p> <p>24 astern, steering won't work. Ship cannot steer.</p> <p>25 Q. Let me ask you this: If the</p>

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<p style="text-align: right;">Page 94</p> <p>1 pilot -- the pilot is giving orders to the tugs;  2 correct?  3 A. Yes.  4 Q. And you -- you said that you yourself  5 have a master mariner's license.  6 Am I correct that you've been in  7 that role before, where you're giving instructions  8 to pilots, who then give instructions to tugs?  9 A. That is correct. I've been the master  10 mariner -- master of a ship, yes, I have been in  11 contact with the pilot.  12 Q. In this case, are you aware that the  13 master and the pilots and the tugmasters testified  14 that it was contemplated that the Aframax would be  15 using her engine as part of this maneuver? Are you  16 aware of that?  17 A. Exactly engine, no, sir. But I know  18 this much, that they agreed with the pilot -- master  19 agreed with the pilot. They used the tugs to come  20 off the berth. The tugs will swing the ship into  21 the channel. That's where two tugs were made fast:  22 one at forward, one at aft, position her in the  23 channel; and then after, the tugs will be cast off  24 and then ship will go on her own power. Until then,  25 the tugs will be controlling her direction and</p>	<p style="text-align: right;">Page 96</p> <p>1 You can answer.  2 Q. (BY MR. HERSCHAFT) Are you aware of  3 that?  4 A. I haven't read about it, what the tug  5 pilot said.  6 Q. You also mentioned a few terms a second  7 ago.  8 Does the company consider this  9 particular area as the -- where this vessel was that  10 maneuvering to be congested? Is that a congested  11 area?  12 A. That is correct, sir. It is congested.  13 Q. And restricted and narrow?  14 A. Correct, sir.  15 MR. HERSCHAFT: Okay. I don't have  16 any further questions.  17 E X A M I N A T I O N  18 BY MS. DUPUIS:  19 Q. The issue we were talking about earlier,  20 I'll just read another excerpt from Capt. Kumar's  21 deposition transcript. He was asked -- this is a  22 question: "And do you see a navigation light on  23 that mooring dolphin on the top right?"  24 And his answer was: "Yeah."  25 He went on to say: "Fendering?</p>
<p style="text-align: right;">Page 95</p> <p>1 movement.  2 Q. But you haven't read -- I think, as you  3 said earlier, you haven't read any of the testimony  4 about the actual discussions that occurred between  5 the master and the pilot and the pilot and the tug,  6 have you?  7 A. No, sir. You mean testimony?  8 Q. Sure.  9 A. I haven't read master's or the pilot's  10 testimony. No, I haven't read it.  11 Q. Are you aware that -- I take it, then,  12 you would not be aware that the pilots testified  13 that the tugs followed all of the pilot's orders?  14 Are you aware of that?  15 MR. HAROWSKI: Objection. Form.  16 Please answer.  17 A. I am not aware what the tugmaster said  18 of this. No, I haven't read it.  19 Q. (BY MR. HERSCHAFT) And are you aware  20 that the tug captains testified that even though  21 they followed the pilot's orders, their actions  22 couldn't turn the vessel because of its full-astern  23 speed?  24 MR. HAROWSKI: Objection to the  25 form.</p>	<p style="text-align: right;">Page 97</p> <p>1 Only on bottom part." [As read]  2 So it appears from his deposition  3 that the captain saw a light, there was a light on  4 the mooring dolphin and also fendering on the  5 mooring dolphin.  6 Are you suggesting that Capt. Kumar  7 was wrong in those recollections?  8 MR. HAROWSKI: Objection to the form  9 and reading it out of context.  10 Please go ahead and answer, Captain.  11 A. It haven't read what Capt. Kumar said,  12 so I don't know on what Capt. Kumar said. All that  13 I know of, at that time, when the -- with the  14 lawyer's assistance investigated, they, in fact,  15 checked on this aspect, and they found out. Our  16 understanding at that time was, there was no light  17 was lit, nor was it fendered. That was the  18 information we had.  19 Q. (BY MS. DUPUIS) What type of fender are  20 you alleging would have prevented the allision of  21 the Aframax with the mooring dolphin?  22 A. Here, my opinion you're asking?  23 Q. Yes. On behalf of ESM.  24 A. I would say that normal fenders, as is  25 alongside any berth.</p>

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1 Q. Such as?	1 WITNESS CORRECTIONS AND SIGNATURE
2 A. Or any dolphin.	2 Please indicate changes on this sheet of paper,
3 Typically, they have very thick	3 giving the change, page number, line number and reason
4 rubber fenders so that you can take the momentum of	3 for the change. Please sign each page of changes.
5 ships, it will -- even if it touches, it takes it	4 PAGE/LINE CORRECTION REASON FOR CHANGE
6 and then bounces back. The jetties are not damaged,	5 _____
7 typically, or terminals or boats are not damaged.	6 _____
8 And neither is the ship. Basically, they stop	7 _____
9 steel-to-steel contact.	8 _____
10 MS. DUPUIS: Pass the witness.	9 _____
11 EXAMINATION	10 _____
12 BY MR. KAJANDER:	11 _____
13 Q. Captain, are you aware of any regulation	12 _____
14 that mandates rubber bumping on mooring dolphins	13 _____
15 in U.S. waters?	14 _____
16 A. In U.S. regulation? No, sir, I'm not	15 _____
17 aware of U.S. regulation.	16 _____
18 MR. KAJANDER: Thank you.	17 _____
19 I have nothing further.	18 _____
20 MR. HERSCHAFT: I don't either.	19 _____
21 MR. HAROWSKI: I think we're good	20 _____
22 here.	21 _____
23 MR. HERSCHAFT: Captain, I think	22 _____
24 we're good here, I agree. Just give me	23 _____
25 one second. I think we've covered all of	24 CAPTAIN VIJAY CHERUKURI
	25
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1 the topics where you have been designated.	1 SIGNATURE OF WITNESS
2 And, Mike, am I correct, then, that	2
3 that is all of the topics for our	3 I, CAPTAIN VIJAY CHERUKURI, solemnly swear or
4 Singapore colleagues?	4 affirm under the pains and penalties of perjury that
5 MR. HAROWSKI: Correct.	5 the foregoing pages contain a true and correct
6 MR. HERSCHAFT: Okay. I have no	6 transcript of the testimony given by me at the time
7 further questions for you, and we thank	7 and place stated with the corrections, if any, and the
8 both of you gentlemen. I do appreciate	8 reasons therefor noted on the foregoing correction
9 it's late where you're at. Thank you for	9 page(s), and that I am signing this before a Notary
10 your time today.	10 Public.
11 MS. DUPUIS: Thank you.	11
12 MR. KAJANDER: Thank you, gentlemen.	12
13 (Deposition concluded at 10:51 a.m.)	13 CAPTAIN VIJAY CHERUKURI
14	14
15	15 STATE OF TEXAS *
16	16 COUNTY OF _____ *
17	17 SUBSCRIBED AND SWORN TO BEFORE ME BY
18	18 CAPTAIN VIJAY CHERUKURI on this, the ____ day of
19	19 _____, 2020.
20	20
21	21
22	22 Notary Public, State of Texas
23	23
24	24 My Commission Expires: _____
25	25 JOB NO. 1-338150

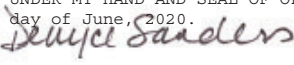
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713-653-7100

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<p>1                               REPORTER CERTIFICATION</p> <p>2   THE STATE OF TEXAS :</p> <p>3   COUNTY OF HARRIS :</p> <p>4       I, DENYCE SANDERS, a Certified Shorthand</p> <p>5   Reporter and Notary Public in and for the State of</p> <p>6   Texas, do hereby certify that the facts as stated by</p> <p>7   me in the caption hereto are true; that the above and</p> <p>8   foregoing answers of the witness, CAPTAIN VIJAY</p> <p>9   CHERUKURI, to the interrogatories as indicated were</p> <p>10   made before me by the said witness after being first</p> <p>11   duly sworn to testify the truth, and same were reduced</p> <p>12   to typewriting under my direction; that the above and</p> <p>13   foregoing deposition as set forth in typewriting is a</p> <p>14   full, true, and correct transcript of the proceedings</p> <p>15   had at the time of taking of said deposition.</p> <p>16       I further certify that I am not, in any</p> <p>17   capacity, a regular employee of the party in whose</p> <p>18   behalf this deposition is taken, nor in the regular</p> <p>19   employ of this attorney; and I certify that I am not</p> <p>20   interested in the cause, nor of kin or counsel to</p> <p>21   either of the parties.</p> <p>22       That the amount of time used by each party at</p> <p>23   the deposition is as follows:</p> <p>24       MR. HERSCHAF - 01:17:18</p> <p>25       MR. KAJANDER - 00:32:42</p> <p>      MS. DUPUIS - 00:18:03</p> <p>      GIVEN UNDER MY HAND AND SEAL OF OFFICE, on</p> <p>      this, the 29th day of June, 2020.</p> <p>      </p> <p>      DENYCE SANDERS, CSR, RDR, CRR, TCRR</p> <p>      Notary Public in and for</p> <p>      Harris County, T E X A S</p> <p>      My Commission Expires: 4-14-21</p> <p>      Certification No.: 4038</p> <p>      Expiration Date: 04-30-22</p> <p>      U.S. Legal Support, Inc.</p> <p>      16825 Northchase Drive, Suite 800</p> <p>      Houston, Texas 77060; 713.653.7100</p> <p>      Firm No. 122</p>	<p>Page 102</p>

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**YOUNG** 2:18

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## Z

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**ZABEL** 2:4  
**Zachary** 2:22  
**Zoom** 31:5